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Alien Land Laws and Alien Rights



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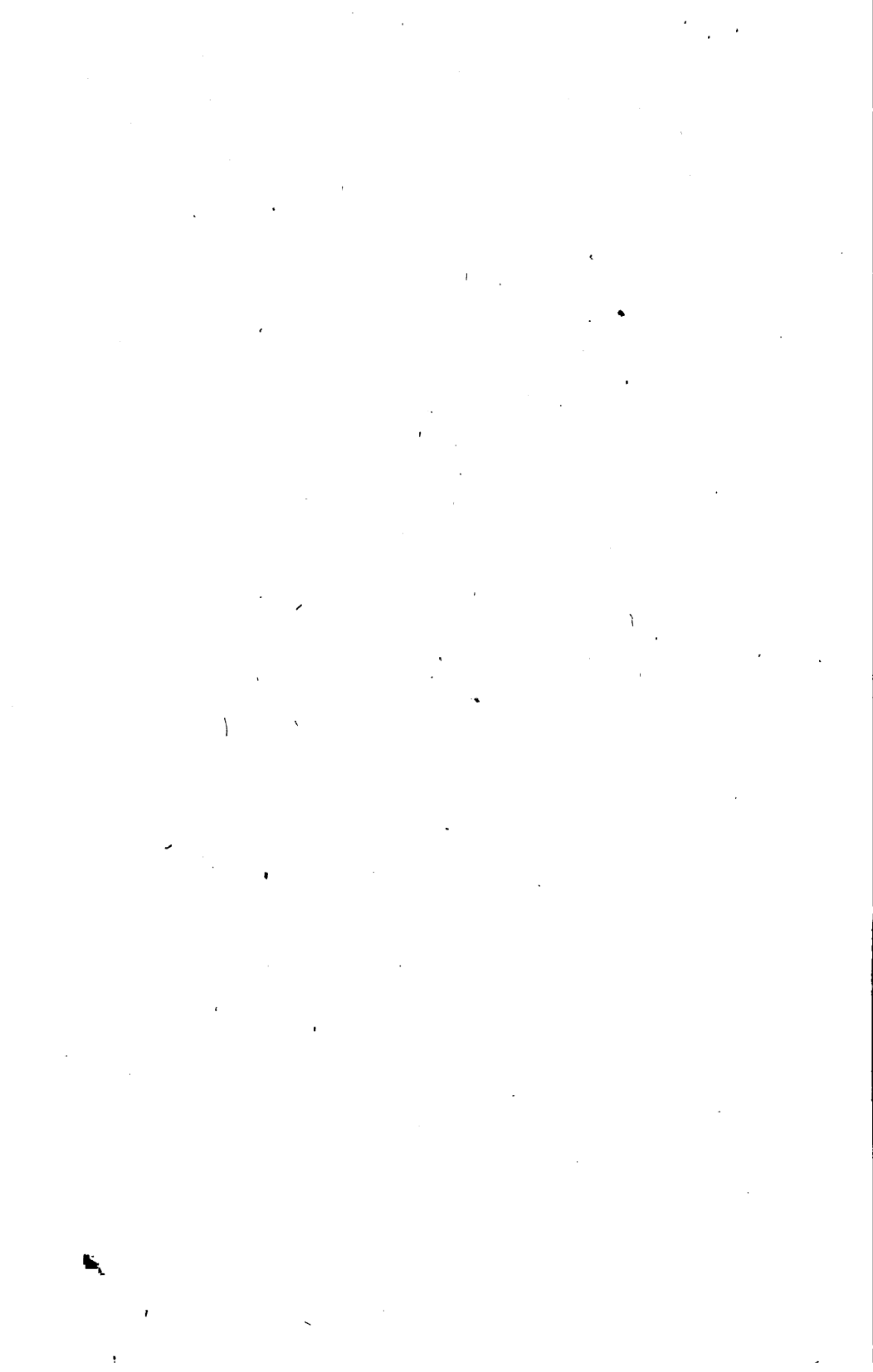
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ALIEN LAND LAWS AND ALIEN RIGHTS

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PAPER PRESENTED BY
CHARLES F. CURRY

MEMBER OF CONGRESS
THIRD CALIFORNIA DISTRICT

ON

ANTI-ALIEN LAND LAWS OF THE SEVERAL
STATES AND TERRITORIES AND OF THE
UNITED STATES, OF JAPAN AND OTHER
COUNTRIES; A DISCUSSION OF THEIR LE-
GALITY AND PROPRIETY, AND A SUMMARY
AND DISCUSSION OF THE RIGHTS OF
ALIENS



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ALIEN LAND LAWS AND ALIEN RIGHTS

By CHARLES F. CURRY, Member of Congress.

INTRODUCTION.

There is no question so much discussed and so little understood as the so-called Japanese question, sometimes referred to as the California question.

At a conference of United States Senators and Representatives in Congress from the 11 Western States and from a number of other States, held in the caucus room of the House of Representatives, Washington, D. C., April 20, 1921, a permanent organization was effected whose purpose it shall be to present the viewpoint of the people of the West to the people of the several States of the Union on oriental immigration and land ownership. Hon. Hiram W. Johnson, United States Senator from California, was elected chairman, and the following executive committee was appointed:

States.	United States Senators.	Members of the House of Representatives.
Arizona.....	Henry F. Ashurst.....	Carl Hayden.
Colorado.....	Lawrence C. Phipps.....	C. B. Timberlake.
Idaho.....	William E. Borah.....	Addison T. Smith.
Montana.....	Thomas J. Walsh.....	Washington J. McCormick.
Nebraska.....	George W. Norris.....	Moses P. Kinkaid.
Nevada.....	Key Pittman.....	Samuel S. Arentz.
New Mexico.....	A. A. Jones.....	Nestor Montoya.
Oklahoma.....	J. W. Harreld.....	James V. McClintic.
Oregon.....	Charles L. McNary.....	N. J. Sinnott.
Texas.....	Morris Sheppard.....	John M. Garner.
Utah.....	William H. King.....	E. O. Leatherwood.
Washington.....	Miles Poindexter.....	John F. Miller.

The California delegation will be a committee of the whole, acting as a unit of the executive committee.

There is no occasion for hysteria, no cause for alarm. We purpose no unusual course of procedure; we purpose the violation of no treaty, the infringement of the rights of the people of no nation. We plan no action contrary to the law of nations or the Constitution of the United States.

The land of a country should belong to the nation and to its citizens. In many States aliens ineligible to citizenship are not permitted to own or lease agricultural or mineral lands. In so legislating the

several States, including California, were within their constitutional rights.

Japanese are ineligible to citizenship, and for this and other reason that I will present further on we insist that by treaty, or by statute, or by both, they be prohibited from immigrating into the United States.

We purpose only that America shall insist on the sacred rights of Americans in America; nothing more; nothing less.

There is a singular solidarity of purpose in the West. The sons and daughters of the hardy pioneers who conquered the wilderness and builded an empire on the western frontier of the American Continent mean to keep that empire American.

It took our branch of the human race thousands of years to develop to the government-by-the-people stage of civilization. It was a long, hard climb from barbarism to American civilization. It would be but a short step backward from the highest civilization to semibarbarism.

While the desire for liberty is as old as the aspirations of the human heart for higher and better conditions, the liberty we enjoy is a new thing in government and dates practically from the Revolutionary War. It cost unnumbered precious lives and untold treasure. It is our obligation to transmit it to posterity as pure as we received it from the founders and preservers of the Republic, who suffered so much and who mutually pledged their lives, their fortunes, and their sacred honor in order that they and we might be free. The people of a Republic can only maintain their liberty as long as the people are homogeneous, speak the same language, worship the same God, and are intelligent, law-abiding citizens who love liberty and are willing and able to defend it.

The miscegenation of the white with the yellow race always results in the production of a hybrid mongrel mentally, morally, and physically inferior to either race, inheriting the mental, moral, and physical defects of both parents. It does not elevate the yellow race and does deteriorate the white race. The very thought of intermarriage is revolting. It shatters the very keystone of occidental civilization. It is demoralizing in morality and menacing in problems of mongrel racial degeneracy. It brings into being dangers of manifest evil to American homes and institutions. I conceive that we would be unworthy of our heritage if we gave countenance to the prostitution of what we honor as the most sacred contract under the law. And it may be said that the idea of intermarriage is as unacceptable to the thinking Japanese as it is to Americans.

It is the duty of our Government to protect itself and its citizens from foreign invasion and commercial and industrial exploitation, whether they come in the shape of bombarding men-of-war and devastating armies or in the shape of passenger and freight ships carrying cheap labor and cheap goods.

The West is being invaded. The process of invasion has been aptly termed "peaceful penetration." The invasion is by an alien people. They are a people unassimilable by marriage. They are a people who are a race unto themselves, and by virtue of that very fact ever will be a race and a nation unto themselves, it matters not what may be the land of their birth.

Economically we are unable to compete with them and maintain the American standard of living; racially we can not assimilate them.

Hence we must exclude them from our shores as settlers in our midst and prohibit them from owning land. Those already here will be protected in their right to the enjoyment of life, liberty, and legally acquired property.

This is not the conclusion arrived at after hasty consideration and radical thought. It is the determination of hard-headed men and women, sons and daughters of the pioneers who builded the Empire of the West, deliberately arrived at after careful investigation, keen analysis, and thoughtful consultation. It is the only means by which we can keep the West, American in heart, spirit, and in blood as well as in name.

This must be done.

The alternative is that the richest section of the United States will gradually come into the complete control of an alien race. They will outnumber us in population; they will control the pulse of commerce. The traditions, the religion, the hopes, and aspirations of the races differ radically; they can never meet on a common ground.

If the Republic is to survive, there must be an American people; one people, inseparable.

I am presenting herewith in as brief and concise form as possible data that I have gathered covering the more important phases of the question. I am prompted to do this because there has been so much discussion and such gross misrepresentation of the California attitude. A careful study of the subject will convince anyone who will approach it with an open mind that the attitude of California, and other States that have taken like action, is not only justifiable but essential to the national welfare.

LEGALITY AND PROPRIETY OF THE "CALIFORNIA ANTIALIEN LAND ACT."

It has sometimes been contended that the California antialien land law is in violation of the Constitution of the United States and of the treaty with Japan.

The California law specifically states that aliens ineligible to citizenship shall be protected in all rights granted them by treaty.

The right of a State to enact legislation prohibiting the ownership of land by an alien is upheld by Article X of articles in addition to and amendments to the Constitution of the United States. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

Further Article XI provides "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against any one of the United States by citizens of another State, or by citizens or subjects of any foreign State." (In effect Jan. 8, 1798.)

Hence, since it is patent the several States of the Union have the express authority and power, which right has been frequently exercised by the States, to control the ownership of land by aliens and to prohibit such ownership, no action to test the validity of State act thus limiting the ownership of land may be had in the Federal courts, and any action must be brought before the State courts and the final appeal will rest with the highest court of the State.

Nor can any treaty entered into between the United States and a foreign State nullify the force and effect of State law governing the ownership of land, for it is an axiom of law that "A treaty can not amend the Constitution." It is not within the power of the Federal Government by treaty, any more than by act of Congress, to deprive a sovereign State of its just powers derived from the Constitution.

Under the common law of England an alien can not own land. "An alien-born may purchase lands or other estates, but not for his own use, for the King is thereupon entitled to them." (This rule is repealed in many of the United States.) "Yet an alien may acquire a property in goods, money, and other personal estate, or may hire a house for his habitation, for personal estate is of a transitory and movable nature; and besides, this indulgence to strangers is necessary for the advancement of trade."—Blackstone.

Hence, it is seen that any privileges extended aliens is in consideration of the advantage that will accrue to the State or the citizens of the State, and where no advantage will accrue it is contrary to public policy to extend privilege.

The rights of every country to determine for itself who may and who may not be entitled to citizenship, domicile, residence, and ownership of land, is universally recognized and exercised and has the sanction of international law. An alien may be permitted to own land in one part and denied the right to own land in another part of the nation or empire.

The propriety of the California attitude can not be honestly and sincerely questioned.

We are determined to prevent the colonization of the West by an alien people, unassimilable, with different standards of living and ideals totally foreign to ours.

Surely Japan can not properly protest our refusal to grant to Japanese nationals in America privileges that Japan withholds from American nationals in Japan.

Our attitude toward Japan and the Japanese people is more than friendly, it is cordial. America is responsible in large measure for the remarkable growth and success of Japan in the family of nations. Our intercourse has always been marked by open and helpful mutual friendship. It is to the material benefit of both nations that this continue.

We do not seek the privileges in Japan that are now denied us, notably the privilege of acquiring land. We recognize fully the right of Japan to deal with questions of internal policy precisely as the Government of Japan sees fit. We expect Japan, in dealing with such questions, to be guided firmly by the thought of the welfare of Japanese nationals. We expect Japan, however, to appreciate our equal right to be guided firmly by the thought, first and only, of the welfare of American nationals in America.

Following is an article published in the Japanese Review of International Law, Tokyo, November, 1920, by A. Ninagawa, LL. D., a recognized Japanese authority, defending the propriety and legality of the California law. In the December number of the same publication appeared an article by M. Maita, another great Japanese authority, to the same effect.

There is also appended an article from the Bee, of Sacramento, Calif., March 27, 1920, quoting two articles from the Japanese Review

of International Law, by Sakuye Takahashi, LL. D., the leading editor of that publication, and by Dr. K. Kobayashi, both of which articles fully uphold the California law.

[Translated from *Gaiko Jiho* (Revue Diplomatique), Nov. 1, 1920.]

ATTITUDE OF CALIFORNIANS TO JAPANESE; HOW TO SOLVE THE QUESTION.

[By A. Ninagawa, LL. D.]

ATTITUDE OF THE CALIFORNIANS IN THE CALIFORNIA LAND LAW.

When we consider the attitude of the Californians from the viewpoint of the land law we have no special reason for criticism. For the Californians have adopted the principle that aliens have the right to own land only within limits set by treaty or by law. There is nothing wrong or illegal in this interpretation. Even aliens eligible to citizenship have the right to ownership in land only within the limits of American law (section 1). They have no absolute right to such ownership. And aliens ineligible to citizenship may own land when such right is provided for by treaty, but not otherwise.

That Japanese, other than those born in the country, are ineligible to citizenship has been known all along. And the present Japan-American treaty (of commerce and navigation) does not provide for the right of operating or possessing land for agricultural use. From the first it has been called a treaty of commerce and navigation. Since its purpose is commerce and navigation this treaty is not an agricultural treaty. Moreover it is certainly a correct interpretation to say that the treaty does not provide for the right of land ownership. The Americans in California probably base their present land law on this interpretation. I regard the California interpretation as correct. It is an extremely unfortunate oversight on the part of the authorities and the entire body of the Japanese people that while they have up to this time for many years been sending large numbers of agricultural emigrants to America, they have not secured definitely by treaty the right of ownership in agricultural land.

It is now impossible for the Japanese people to secure from America the rights in agricultural land which Japan desires, but which has not been guaranteed by treaty. If we wish to secure rights in agricultural land we must do it either by concluding a new treaty or by securing from America eligibility to citizenship. There is no other way. We can say that in the California law itself there is no element of injustice.

[From the *Sacramento Bee*, Aug. 27, 1920.]

JAPAN REVIEWS OUR LAND LAW—HER AUTHORITIES DECLARE IT VIOLATES NEITHER CONSTITUTION NOR TREATY.

[By V. S. McClatchy.]

Some Japanese, and many pro-Japanese in this country, question the constitutionality of California's proposed initiative alien land law, and insist also that it conflicts with the existing treaty between Japan and the United States.

LEGALITY OF MEASURE QUESTIONED.

Henry P. Bowie, who was formerly a Californian (he was the first president of the Japan Society of San Francisco), now settled in Japan, says in a leading article in the *Tokyo Japan Times* and *Mail* of July 5, 1920:

"It is the opinion of many legal minds and jurists of distinction that this California statute violates the letter and the spirit of the treaty with Japan. * * * There are sound reasons for believing that should the case be properly presented either by an appeal to, or by original proceedings taken in, the United States Supreme Court, that tribunal would adjudicate the California land law to be unconstitutional and void."

And again, Mr. Bowie says: "The Constitution of the United States declares all treaties to be the supreme law of the land, any law of a State to the contrary notwithstanding."

It has been pointed out a number of times by the proponents of the California land measure that it does not violate in any way the existing treaty with Japan, nor is it in violation of the Constitution of the United States. The contentions put forth by Mr. Bowie in the article referred to are shown to be ridiculous by Japanese authorities of recognized standing, who concede that the law, as originally passed in 1913, and the

initiative measure now before the people, do not in any way conflict with the treaty or with the Constitution of the United States, and that Japan can have no legal redress in the matter.

TAKAHASHI CONCEDES STATUTE IS LEGAL.

The "Japanese Review of International Law," published at Tokyo, is a recognized authority in that country, its contributors being among the best known and best informed of Japanese statesmen.

In the March, 1919, issue of that review, there appeared an article by Sakuye Takahashi, LL. D., its leading editor, in which he disposes uncompromisingly of the opinion, more or less prevalent among the Japanese, that the California land law can be set aside by appeal to the United States Government or to the courts.

He shows in that article:

1. That the treaty between Japan and the United States contains no "favored-nation" clause applicable to the case.

2. That the treaty fails to concede to Japanese in this country the ownership of land for any purpose, or lease of land except for commercial or residential purposes; and that, therefore, the Japanese can not claim under the treaty the right to the use of agricultural lands, either through ownership or lease.

3. That even if the treaty did permit ownership of land, such provision would be illegal, since it is not within the province of the Federal Government but solely the right of the individual States to regulate within their own borders the ownership and control of land.

KOBAYASHI FINDS NO FLAW IN INITIATIVE.

The argument of Dr. Takahashi, being written over a year ago, dealt only with the law of 1913, and could not take into account the initiative measure now before the people of California; but the same Japanese review, in the issue of June, 1920, published a lengthy article by Dr. K. Kobayashi, under the title of "The Anti-Japanese Land Law in California," which considers very fully all phases, historical and legal, of the law of 1913, and also of the initiative measure now before the people of this State for decision.

Therein, he sets forth as clearly and uncompromisingly as did Takahashi a year before, the futility of attempted opposition by legal methods to the California alien land law. He says: "Neither the present California alien land law nor the proposed hasty and cruel initiative law can be dealt with as legal questions. All that can be done is to soften them by political and diplomatic methods."

He considers the proposed law, first as to its constitutionality, and next as to its compliance with the treaty, very fully, explaining the points in connection with both phases.

CALIFORNIA WITHIN HER STATE RIGHTS.

He shows that under the Federal Constitution the Federal Government is clothed only with certain powers as to matters and conditions within the respective States, and that as to other matters full authority is vested in the States themselves. Among the matters over which the States have entire and absolute control are land, and its acquisition and use; and he concludes: "Hence the California land law does not in any way conflict with the Constitution. California can extend or shorten the leasing period or take away the privilege entirely, and we can do nothing."

He explains fully our treaty with Japan, showing the material differences between this treaty and a similar treaty made by Japan with Great Britain. Our treaty with Japan expressly omits granting to Japanese in this country the privilege of owning any land for any purpose, or of leasing lands for purposes aside from those having to do with commerce and residence. The treaty with Great Britain is quite different.

He shows, too, that the only "favored-nation" clause in our treaty with Japan is found in Article XIV thereof, which applies solely to matters of commerce and navigation, and can not be made, under any stretch of the imagination, to apply to land ownership. In fact, the treaty itself is simply a treaty of commerce and navigation. He states very positively, therefore, "the California land law violates neither the Constitution nor the Japan-American treaty of commerce and navigation."

NATURALIZATION NOT GOVERNED BY TREATY.

He writes in a similar uncompromising way of the suggestion that Japan can secure for her nationals naturalization in the United States by treaty, and says: "To secure naturalization by treaty for aliens ineligible to citizenship under the naturalization law is totally unthinkable," explaining that matters of naturalization are not within the jurisdiction of the executive department of the Federal Government, which

department has to do with the negotiating of treaties with other nations, but belong only to the legislative functions of Congress.

It is nevertheless true that the Japanese embassy at Washington, as reported on several occasions, has made earnest protest against the progress of the initiative land law measure in California. The embassy is even reported to have delayed certain negotiations on matters entirely unrelated, until the California question shall have been decided.

THE BASIC FACTS OUTLINED.

To expatriated Californians like Henry Bowie, now earnestly promoting the plans of Japan against this country, without proper knowledge of the facts; to earnest Americans in this country innocently acting as propagandists for Japan, and similarly uninformed; to other Americans whose selfish interests induce them to espouse the Japanese cause regardless of the menace to this country; and to official Japan seeking to induce the Federal Government to interfere again in blocking the fight which California is making, not for herself alone, but for the entire Nation; to all these the following facts should be known and heeded; and to him who still doubts that they are facts, necessary proofs will be supplied on application.

1. The highest authorities on international law in Japan frankly declare that the California initiative land law does not conflict either with the American Constitution or with the American-Japanese treaty.

2. Similar authority, or the law itself, shows that California, in thus complying strictly with the treaty, will refuse to the Japanese in this country no rights or privileges which are not refused by law to Americans in Japan.

3. In thus seeking to prevent control by the Japanese of the land and its products, California is using her limited jurisdiction in an attempt to stop an evil which would eventually result in economic control of the Nation by an alien and unassimilable race.

4. While individual States may guard the land and its products from control of this character, only the Federal Government can stop the incoming tide of this alien and unassimilable race. If that tide be not stopped, the comparative birth rates officially established in California demonstrate that the white race in this country must succumb in time to actual force of numbers.

RESTRICTION IN JAPAN ON OWNERSHIP OF LAND BY FOREIGNERS.

Japan does not permit either ownership, or control, or use of agricultural lands for profit by foreigners. Their statesmen frankly admit this, but certain propagandists have endeavored to camouflage the situation by various misleading statements.

A fair understanding of the manner in which at times these propagandists seek to misinform Americans as to the situation may be had by reading the open letters of K. K. Kawakami, recognized publicity agent for Japan on the Pacific coast and the answers thereto by Mr. V. S. McClatchy, publisher of the Sacramento Bee, of Sacramento, Calif., published in the Bee, October 21 and November 1, 1920 appended.

The appended editorial published in Millard's Review of the Far East, Shanghai, October 9, 1920, gives a clear statement of the limitations of the rights of aliens in Japan.

For authorities which will be unquestioned as to the actual effect of Japan's law on this subject, note the following:

(a) Baron Uchida, in a statement to the Japanese Diet January 30, 1921, transmitted by Associated Press and published in this country, said: "Japan does not permit ownership of her land by foreigners."

(b) In the March, 1921, number of the New York Times' Current History Magazine, on page 505, will be found a quotation from the Kobe (Japan) Chronicle, criticizing Dr. Iyenaga for misleading statements made by him in an article previously published in the magazine named. In the course of this criticism the Chronicle says: "In Japan aliens can not purchase land."

(c) In a story sent from Washington, D. C., February 14, 1921, by Mr. A. L. Bradford, United Press staff correspondent, and published by United Press papers generally throughout the United States, concerning the demand of the United States that the island of Yap be opened to all nations as a cable landing station, the following statement was contained: "The Japanese delegate (to the conference of five powers, preliminary to the national communications conference) opposing this are said to have pointed out that the laws of their country provide that all cables landed on Japanese territory form a Government monopoly and that the foreign ownership of land is prevented."

There is also appended a concise and accurate statement of the antialien land law of Japan from "California and the oriental" by the State Board of Control of California, 1920.

[From California and the Oriental, by the State Board of Control of California, 1920.]

ALIEN LAND LAW OF JAPAN.

Japanese law, like the alien land law of California, prohibits aliens from owning land in fee, but permits leaseholds for varying terms of years, confined to industrial and residential purposes—no agricultural lands leased.

Legislation broadening land ownership by foreigners was attempted in 1910, following representations made by a number of foreign Governments, and was favorably acted upon by the Japanese Diet, but the law has never been promulgated and is therefore not in force.

A similar fate attended the more recent efforts of the Japanese Parliament in the same direction, induced apparently by a desire to overcome Mexican arguments against granting Japanese the right to own land.

[From the Sacramento Bee, Oct. 21, 1920.]

REGARDING LAND LAWS IN JAPAN—KAWAKAMI ASSERTS FOREIGNERS HAVE FREE HAND.

The following letter from K. K. Kawakami, who is credited with having charge of Japan's publicity in this country, is in reply to the letter of September 2.

The publisher of the Bee, answering Mr. Kawakami's criticism that the official argument for the initiative alien land law, did not properly represent Japan's attitude toward foreigners on the lease and ownership of lands.

To the Editor of the Bee:

SIR: I accept with great pleasure your harmless thrust at me in the Bee for September 27.

I admire your sense of humor in commenting upon the Japanese laws governing the rights of landownership and leasing by foreigners in Japan. Your cartoon is a masterpiece. Mr. McClatchy is surely a great humorist when he says that, "the best disproof that Japan does not permit foreigners to own agricultural lands would be to show that foreigners have acquired and enjoyed control of agricultural lands in Japan, and no such proof has as yet been presented."

DRAWN COMPARISON.

American farmers have not gone to Japan to buy farm lands for about the same reason that they have not gone to Monaco to buy farm lands there. Monaco, with its Monte Carlo, its booze, its gambling, its beautiful women from all parts of the world, must be an alluring spot on the face of the earth, and yet no American farmer has, as far as I know, ever attempted to buy farm lands in that delightful country, for the simple reason that there is no farm land that Americans can buy. To my certain knowledge the laws of Monaco permit foreigners to purchase land.

You must surely know that Japan has no farm lands to attract Americans there. It is physically impossible for foreigners to acquire land in Japan. Moreover, what acreage you may find in Japan is so high priced that no American, who is accustomed to low prices of land, would dream of getting a farm in Japan.

LAND HERE CHEAP.

Why should any American take the trouble to cross the Pacific to get farm land there when you have, right at your door, more lands than you can cultivate? The price of farm land in America, compared with what you would have to pay in Japan, is almost a pittance.

Of course, I know that the Pacific Ocean is a little pond, but still it is a pond, and it takes 17 days and costs you \$300 to cross it, without estimating the cost of cocktails that you may buy on the steamer. American farmers would be a fantastic lot if they took fancy to Japanese farms whose prices are prohibitory and whose productivity is maintained only by the most painstaking process of cultivation and liberal application of fertilizer, and went across the ocean with not only bag and baggage, but with mules and tractors and thrashing machines at great cost.

JAPAN ALLOWS LAND OWNING.

To be serious, Japanese laws permit foreigners to own land if they organize juridical persons in compliance with the provisions of the commercial code. If Mr. McClatchy and his friends will go to Japan and organize a corporation without including any Japanese, I will guarantee that they will enjoy the right of land ownership. Mr. McClatchy speaks of the law of 1910, which proposes to extend land ownership to foreign individuals, but which has never gone into effect. Never mind that law. I am not talking about that. I am entirely ignoring it. I am talking about the existing laws, which are fully in effect.

Under the present laws, foreigners can lease land of any description for 50 years. Again, they can acquire the right of superficies for unlimited periods. Superficies for 1,000 years, for example, is almost as good as ownership.

HAVE OTHER RIGHTS.

In addition to these rights, foreigners in Japan still enjoy the right of lease in perpetuity, a peculiar species of lease for unlimited period. This prerogative was obtained by foreigners in the days of extra territoriality, and is still in effect.

As for your editorial entitled "Kawakami and the Gentlemen's Agreement," I will only say I was not the man who went to Chico to speak before the Ad Club.

K. K. KAWAKAMI.

SAN FRANCISCO, CALIF.

MAY LEASE LAND BUT NOT USE IT FOR PROFIT.

[From the Sacramento Bee Oct. 21, 1920.]

Below is the reply of V. S. McClatchy to Mr. Kawakami's letter in the column opposite as to Japan's laws and regulations affecting use of agricultural lands by foreigners:

In the first place, the present discussion with Mr. Kawakami as to what Japan permits in the way of land ownership to foreigners is entirely academic from my point of view, and has no bearing on the propriety of California's alien land-law measure. As stated in my published letter of September 18, to Mr. Kawakami, California's policy is a necessary one for self-protection. Even if Japan does permit Americans to enjoy profit from ownership of her lands, such a privilege would be valueless to us, and no justification for California conceding to the Japanese in this State a privilege of inestimable value to them, and certain in time to result disastrously for the State and to injuriously affect the Nation.

CLAIMS ARE DENIED.

But I do not dodge the issue on the academic question raised by Mr. Kawakami. I declare positively that Japan, regardless of her claims and protestations and legal camouflage, does not grant to Americans either ownership or lease of agricultural lands which, in practice, would permit them to farm those lands for profit, as is being done by the Japanese in California.

As was said before, the best disproof of this statement would be to show instances in which those lands have been so worked by Americans or other foreigners.

STATEMENTS MISLEAD.

Mr. Kawakami makes no statement which can be said to be untruthful, but from the statements he makes and the manner in which they are made, he permits the

reader to infer—in fact, forces the reader to infer—a condition of things which does not exist.

The question at issue is: "Does Japan permit foreigners to own or lease agricultural lands and farm them for profit?"

AMERICANS EXCLUDED.

Mr. Kawakami leads the reader to believe that she does so permit under several methods—by organization of a juridical person (corporation), under lease for definite term, under perpetual lease, and under right of superficies. It is not true that under any of those methods an American may acquire agricultural land in Japan and harvest and market crops therefrom for profit, as is done by the Japanese in California.

In the first place, leases in perpetuity are no longer granted. Those granted in former years are regarded as vested rights, and may be bought and sold. The few covering agricultural lands would be worthless for the purposes under consideration for reasons which appear hereafter.

SUPERFICIES FOR BUILDING.

Superficies, now limited to a stated period, to which Mr. Kawakami refers as being almost as good as ownership, is a right granted for building and general improvement purposes, and not, I am told, for agricultural uses.

The juridical persons (corporations) which may own land for foreigners under the commercial code, are those which are not organized for profit but for maintenance of churches, clubs, schools, etc. That privilege is worthless to the foreigner who wishes to develop a mining property or market produce.

Emphytosis, a form of lease for a stated period, is used for lands devoted to agriculture; and emphytosis is so hedged in by the discretion granted to local officials and courts (always inimical to foreigners), and by the power of the agricultural guilds, that any foreigner attempting to market produce from a piece of agricultural land in Japan could sink a fortune and still fail.

WOULD BE ANNOYED.

I doubt even that American farm laborers in any number would find it practical to continue at work on Japanese farms, should they wish to do so, because of the opposition of the agricultural guilds and the annoyances to which they could be subjected by local officials. It is evident that there is some excellent reason for the fact that no foreigner works agricultural lands for profit in Japan.

MAY NOT FOLLOW AGRICULTURE.

Nothing could be more conclusive on this point than the following language from the Kobe Weekly Chronicle of September 25, 1920, used in an editorial commenting on the argument of Col. John P. Irish against the initiative alien land measure: "It is certain that, though the leasing of land is allowed to foreigners in Japan, the pursuit of agriculture is not."

Japan, while claiming to be liberal to foreigners in the matter of land ownership and business, has so hedged the apparent privileges by conditions and discretion lodged in officials that the privileges can not be enjoyed. In securing this result Japan was wise. I criticize only her attempt to deceive the world as to the facts when she seeks for her people in outside countries privileges denied foreigners in her own land.

Imperial edict 18, article 40, promulgated January 6, 1784, says:

"Land shall not be sold, hypothecated, or mortgaged to foreigners, nor shall deeds or titles be passed conveying to them ownership rights."

RUNS AGAINST INDIVIDUAL.

That prohibition runs against the individual, and officials and courts see that its intent is carried out, also, as to corporations organized by foreigners which may in any way threaten the national or business interests of the Japanese.

In March, 1913, the Tokyo district court rendered an adverse decision in the case of Rev. W. D. Cunningham, an American missionary, against a Japanese, Hiranuma Hachitaro, for recovery of part of the purchase price paid for lands under the lease system, a shortage in acreage having been discovered. In that decision the court held:

"As foreigners have no right of land ownership in Japan, the contract could only be for the right to use the surface of the land, according to Japanese civil law, and that

such a lease of the surface did not involve such rights of ownership as would enable the foreign purchaser of these rights to recover, even though the contract pretended to lease the surface rights of a definite area."

COURT PROCEDURE.

The Japanese courts, it is said, usually, if not always, make it plain that a foreigner is not entitled to a judgment on the basis of the facts and the equities, save as modified by his disability as a foreigner.

Again, I shall not criticise the Japanese courts for following their own methods in protecting their people against the incursion of foreigners. It is not too much, however, to ask that our Japanese friends should cease attempting to mislead us as to the facts.

V. S. McCLATCHY.

[From the Sacramento Bee, Nov. 1, 1920.]

USES OF LAND PERMITTED FOREIGNERS IN JAPAN—MR. KAWAKAMI FURTHER EXPLAINS.

TO THE EDITOR OF THE BEE:

SIR: I do not wish to enter into further controversy with the Bee on the question of the alien land laws of Japan, but I consider it very important that the public should have correct information on the question.

Mr. McClatchy in reply to my recent letter addressed to the Bee still claims that the existing laws of Japan do not extend to foreigners the privileges of owning and leasing land, and especially farming land, which I said they did.

SUBMITS DATA.

As a conclusive evidence of my contention, I wish to submit the following data showing that foreigners do own and lease lands in Japan:

1. Owned by 169 corporations, organized exclusively by foreigners, 656 acres, of which about 164 acres are farm lands.
2. Owned by 69 foreigners, of whom 20 are Americans, in the name of Japanese, 195 acres, of which 18 acres are farm lands.
3. Perpetual leases, 336 foreigners, of whom 55 are Americans, 430 acres.
4. Superficies, by 335 foreigners, of whom 100 are Americans, 547 acres, of which 52 acres are farm lands, the balance being city lots, forests, pastures, etc.

PRICES ARE HIGH.

Of course, the area of land owned or leased by foreigners in Japan is very small, but this is not due to the impediment of the laws, but rather to the fact that Japan has no land which can be purchased by foreigners with advantage. As I said in my previous letter, the price of lands in Japan is almost prohibitory. Then, too, the country is so small, and the area of tillable lands is so limited that it is physically impossible for foreigners to go to Japan and acquire large tracts of agricultural lands.

K. K. KAWAKAMI.

FOREIGNERS MAY NOT FARM FOR PROFIT.

A continued public discussion with K. K. Kawakami as to Japan's policy in permitting ownership and lease of the agricultural lands to foreigners would be useless, because he is not so desirous of having the actual facts known as of favorably impressing this country with Japan's policy, regardless of the facts.

He says that "Mr. McClatchy still claims that the existing laws of Japan do not extend to foreigners the privileges of owning and leasing land and especially farming lands."

That is not a fair statement, for I made no such claim. My answer to Mr. Kawakami was published in the Bee on October 21, side by side with his letter. The answer was headed, "May lease land, but not use it for profit." In the article I said, "Japan, regardless of her claims and protestations and legal camouflage, does not grant to Americans either ownership or lease of agricultural lands which in practice would permit them to farm those lands for profit, as is being done by the Japanese in California," and I explained fully the various possibilities as to ownership and lease.

SEEKS TO MISLEAD.

Kawakami offers neither disproof nor denial of my statement, but seeks to mislead the public by declaring what I concede, that ownership and lease are permitted under certain restricted conditions, and then encouraging the inference that therefore a foreigner may farm agricultural land in Japan for profit. That inference is directly opposed to the fact, as Mr. Kawakami knows and as he has not yet denied. In none of the few instances of ownership or lease of agricultural lands cited by him is the owner permitted to raise produce thereon and market it for profit. And that is precisely the point which I make. Of what use is a lease of land to an agriculturist if he is not permitted to use the land for profitable purposes?

STATEMENTS CONFIRMED.

The proofs which I offered in the matter were confirmed by publication in the Bee on October 27 of a letter from Guy Walker, of New York, in which he writes from personal knowledge of conditions in Japan and quotes also the work on Japanese in eight volumes by Capt. Brinkley, published in 1911 by Millet & Co., of Boston. Sidney Greenbie, in an article in the New York Herald, October 17, 1920, furnishes similar testimony.

But I stress particularly the fact that Mr. Kawakami has not yet denied my statement, that no foreigner is permitted to farm agricultural lands in Japan for profit, even though he may hold one of the few restricted privileges covering ownership or lease.

V. S. McCLATCHY.

[From the Sacramento Bee, Nov. 30, 1920.]

JAPAN'S TREATMENT OF HER FOREIGNERS—A CLEAR EXPOSITION OF FACTS BY FAR EASTERN AUTHORITIES—SHE STERNLY FORBIDS AMERICANS IN JAPAN PRIVILEGES SHE DEMANDS FOR NATIONALS HERE.

[From Millard's Review of the Far East, Shanghai, Oct. 9.]

Press dispatches from America and the American papers as well are full of reports regarding the vote that is to be taken in California this fall on the subject of ownership of land by Japanese. The subject is now under discussion by the Japanese minister in Washington and Mr. Colby, Secretary of State, and it has become so big that it is a feature of the national election. Japanese press propaganda in America is working full time and Japanese press propaganda in the Far East is working overtime. Americans are being called to account for their inability to uphold "justice and humanity" in the face of the irate Californians who desire to retain their State for themselves rather than for the sons of Nippon, who have been going there in such numbers for the last few years.

JAPAN'S DEMAND FOR FAIR TREATMENT.

We are not going into the merits or demerits of either the Japanese or the Californians in this dispute, which the Japanese official organs are magnifying to an exorbitant extent. But we are going to start a backfire out here in the Orient against the Japanese on the same line that they are using it in America: The treatment of foreigners in Japan. According to the Japan Advertiser, of Tokyo, for September 26, the Japanese Association of California, through its Los Angeles branch, sent a memorandum to President Wilson in which the following statement was made: "The Japanese understand that real Americans never support any discriminatory treatment of foreigners, and therefore we hereby pass the resolutions expressing our sincere desire, and trust that we may be given the most fair treatment in the name of both humanity and the American national principle of fairness and justice."

WHAT JAPAN DOES TO AMERICANS.

Mr. A. M. Pooley, a member of the faculty of Clare College, Cambridge, England, and author of several authoritative books on Japan, has now issued another on the same subject, entitled, "Japan's Foreign Policy," Mr. Pooley was Reuter's agent for several years in Japan, and certainly ranks as an authority on that country, along with Mr. Robert Young, the distinguished publisher of the Japan Chronicle, at Kobe. In the first chapter of Mr. Pooley's new book we find these statements:

"For example, a foreigner can not become naturalized as a Japanese except by marriage into a Japanese family and adoption of a Japanese name. Yet Japan de-

mands from the United States, and has acquired from other countries, the right of naturalization for her sons. No foreigner can own land in Japan, and it has been repeatedly and responsibly stated, both in the Diet and out of it, that such foreign ownership would be a 'pollution' of Japanese soil. But nevertheless the Mikado's Government claims from America and Canada, and has obtained from most other countries, the right of Japanese to own real estate.

"MAY NOT OWN A MOTOR BOAT.

"No foreign ships are allowed to carry passengers or freight between the ports of Japan, though the Nippon Yusen Kaisha (Japanese steamship line) runs service between Rangoon and Singapore, Colombo, Aden, Port Said, Malta, Gibraltar, and the home ports of Great Britain. No launch, barge, or boat of foreign registration is allowed to ply in Japanese harbors, either for transport of passengers or of freight, yet the flag of the Rising Sun flits between Kowloon and Hongkong and in a hundred other ports. A foreigner may not even own a motor boat in his own name.

"MAY NOT PRACTICE LAW OR GET JUSTICE.

"By a bill introduced into the Japanese Diet in 1913 by Dr. Okuda, the then minister of justice, no foreigner may open a law office, though Japanese plead in New York, London, and elsewhere. Foreign labor is absolutely forbidden in Japan, but Japan protests against efforts to keep Japanese labor out of British Columbia. The above are only instances of the manner in which foreigners are discriminated against. Whoever heard of a foreigner being acquitted in a Japanese court? Dr. Ebara, the best known of Japanese Christians, said: 'A principal characteristic of the Japanese is their antiforeign attitude.' Mr. Togawa Daikichiro wrote: 'The Japanese regard all foreigners as enemies.' Mr. Ozaki, minister of justice, was credited by the Miyako Shimbun with 'foreigners are only good for what they bring us.' "

THE END JUSTIFIES THE MEANS.

In all the discussions of the Japanese landownership question in California, we have seen no mention of the foregoing facts brought out by Mr. Pooley. Perhaps this is due from Mr. Pooley again, to the following statement of Mr. Ozaki, an ex-minister of state and a leading Japanese politician and a highly respected citizen, who said: "Deceit may be pardoned in proportion to the benefits it confers." Or, if this isn't enough, perhaps it is due to the following sentiment expressed by Viscount Miura, another prominent Japanese: "Ways and means need not be regarded if the object is attained." The viscount made his public statement just before he caused the murder of the Queen of Korea. The Americans at home who are being shamed by the Japanese because they permit their California citizens to discriminate against the sons of Nippon don't know about these conditions out here in the Orient.

"But Mr. Pooley is a prejudiced Englishman," we hear our Japanese propagandists saying already. Well, we won't leave it to Mr. Pooley, who has lived in Japan and may be prejudiced. We will now go to official sources.

THE LAW AS TO LAND OWNERSHIP.

We have before us as we write these lines the official Japanese Yearbook for 1919-20, edited by Prof. Y. Takenohi, of Waseda University. On page 37 we find the following reference to landownership by foreigners in Japan:

"In regard to the right of ownership of land, this right was denied to individual foreigners, but by the law promulgated April, 1910, this question has received radical modification. It imposes various restrictions on the foreign ownership of land, as follows:

"1. Hokkaido, Saghalin, and Formosa are exempted from the operation of the law. (Ed.—These three islands constitute a large percentage of the total area of Japan.)

"2. It is impossible for the right to be granted in any district declared to be reserved for the purpose of national defense.

"3. The law makes it incumbent on any foreigner who owns land in a district newly declared to be within a fortified zone to divest himself of that property within one year on pain of sequestration.

"4. The law only grants the right of ownership to those foreigners who maintain a household or lodging in the country, or to those foreign judicial persons who keep an office here.

"5. It compels any foreign landowner who may leave the country and thus fail to maintain a household or lodging to sell his property within five years on penalty of its reversion to the national treasury. The date of putting the law in operation still remains unfixed."

HOW THE LAW OPERATES.

The Japanese propagandists can't call their own official yearbook a prejudiced publication. A careful examination of the foregoing quotations from this publication will disclose the fact that it would be about as easy for the proverbial camel to negotiate the eye of a needle as it would be for a foreigner to own in his own name a piece of land in Japan. First, they exclude three large sections of their Empire from the operation of the law of 1910, and the military clauses make it impossible for the foreigner to own land anywhere else, and if he did it, gives the Japanese Government power to dispossess him of his land at any time by the simple process of declaring it to be within a new military zone. This would cover every large city and seaport; in fact, any place on the seacoast. The foreigner might own the top of a mountain, but this might interfere with the operation of military airplanes, so there you are.

HOW JAPAN DECEIVES THE WORLD.

Furthermore, the famous law of 1910, which was supposed to give the foreigners the right to own land in Japan "under certain restrictions" enumerated above, has never been put into effect. The only foreign leasehold of land in Japan is that held by foreigners who held their property away back in the early days before Japan became modernized sufficiently to discriminate against the foreigner. And this had to be settled by The Hague Court. At almost every session of the Japanese Diet the subject is brought up regarding the putting into effect of the famous law of 1910, but no action is ever taken. There is just sufficient agitation and news references sent out by Kokusai, the official news service, to mislead the rest of the world regarding real conditions.

The Overland China Mail, of Hongkong, last year had some caustic remarks on this very point, the charge being made that this subject is brought up in the Diet every year for the simple purpose of throwing dust in the eyes of the British Parliament to prevent that body from legislating against the ownership of land by Japanese in British colonies until the same right is granted to British subjects in Japan. The Japanese own so much land in Hongkong that it has caused a serious housing problem for the rest of the residents of the colony, and the British paper closes its discussion with the following pertinent remark: "These (Japanese) people apparently want everything their own way."

HOW FAR CAN JAPAN PLAY UNCLE SAM?

We don't know enough about the merits or demerits of the California case to go into it intelligently from this distance. There probably is justice on both sides and, likewise, injustice, but the whole question is beclouded by politics. From this side we have a pretty sure feeling that the Japanese militarists are in a bad hole and are using the California question, as they use Siberia and China, to stir up and to throw dust in the eyes of their own people. We know that the American people will stand a lot of bluffing from the Japanese military crowd. They will also go a long way before their patience is exhausted. But, when pushed beyond the limit, Japan will meet the consequences that came to Spain and Germany, two other nations that played Uncle Sam for a fool and played him too far.

FARM LAND AVAILABLE IN JAPAN FOR THE JAPANESE.

It has been frequently given as the reason for the "peaceful penetration" of the Western States of the United States by the Japanese that the Japanese are crowded out of Japan by reason of overpopulation and the consequent lack of arable land, which forces them to find homes in other countries. This contention is far from true.

The Japanese migrate only to the richest countries with the most attractive climates and the greatest trade possibilities. By establishing the race firmly on our side of the Pacific it will be much easier for Japan to control the trade of the Pacific, to the exclusion of

Americans. Indeed, I do not see how we can prevent it if we do not protect our citizens in their sacred rights in America at least as well as Japan scrupulously protects the rights of Japanese nationals in Japan.

The utilization of the resources of America for the benefit of an alien people and a foreign nation to the exclusion of the benefit that must of necessity derive to America and Americans by their utilization by Americans can not be permitted to continue.

The following excerpt from "California and the Oriental," by the State Board of Control of California, 1920, shows clearly and conclusively that land is available in Japan for the Japanese:

[Excerpt from "California and the Oriental,"]

MILLIONS OF ACRES AVAILABLE IN JAPAN.

The impression quite generally prevails in this country that the Japanese are compelled to emigrate to other countries out of sheer necessity of making a living. It is alleged that the population of Japan is increasing so rapidly that the producing lands are not capable of supporting the population. That this is an erroneous impression is evidenced by the following announcement concerning available farm lands in Japan, which was published in the "Japanese American News," January 6, 1920, and dated as a dispatch from Tokio, December 15, 1919:

"NEW FARM VILLAGES OPENED ALL OVER THE COUNTRY—LAND UNTAXED FOR FORTY YEARS—GREAT INDUCEMENTS TO FARMERS—JAPAN'S BIG RECLAMATION SCHEME—FIVE MILLION ACRES NEW FARM LAND.

"For the past 10 years the Department of Agriculture and Commerce has been conducting an investigation of all arable lands in the different municipalities and prefectures. The investigation which was completed two years ago has shown that there are 2,000,000 cho (5,000,000 acres) of farm land which can be reclaimed under the waste-land reclamation law. Work has already begun this year (1919) for the opening up of 1,500,000 cho (3,250,000 acres) for rice and vegetable fields. The industrial bank is to supply the necessary capital and the scheme extends over 30 years * * *.

"The government is to encourage agricultural settlers by grants of aid, low rates, easy payments, and practical exemption of newly opened land from taxation for 40 years."

This same erroneous impression is corrected by the statements of Carl Crow in his book entitled "Japan and America" issued 1916, from page 20 of which we quote the following:

"It is frequently asserted that every square foot of arable land in Japan is under intensive cultivation. Doubtless this is the impression one gets on coming from America, where in some places, at least, the owners still count their possessions by the section and the quarter section rather than the acre. But a closer study of the area of the country and its development reveals the fact that the present area under cultivation might be appreciably increased. Though there is a mountainous country, the Japanese are not mountaineers, but dwellers of the plains and valleys. There they live, contented with their narrow fields; the sides of hills and mountains which would be terraced by Chinese or Igorots remain uncultivated and unproductive. The Government authorities after a careful survey of the entire country have reached the conclusion that simply by reclaiming and putting under cultivation the land which is inclined at an angle of less than 15° the area of arable land may be doubled."

In this same connection we quote from April, 1920, issue of Outlook Magazine, the organ of the Interchurch World Movement, which published the following in an article by Mr. Young of the Japan Chronicle entitled "What the world wants to know about Japan":

"Japan is, of course, just becoming an industrial nation. While on the other hand the shortage of labor is becoming a serious question the growth of population is now beyond the ability of the country to feed itself. However, the claims that Japan must go elsewhere to find room for her people is sheer nonsense, for she has the whole of the Hokkaido (the north part of the mainland) which is hardly populated."

RACES ARE UNASSIMILABLE.

The following articles, one by Hon. V. S. McClatchy, publisher of the Bee, of Sacramento, Calif., and one by Madari Komatsu, Japanese journalist and diplomat, on the question of assimilation, show clearly that the two races are not assimilable.

[From the Sacramento Bee, Nov. 8, 1920.]

JAPANESE JOURNALIST AND DIPLOMAT GIVES VIEWS ON OUR JAPANESE PROBLEM—MIDARI KOMATSU FEELS THAT RACES ARE UNASSIMILABLE AND SHOULD DEVELOP APART IF FRICTION AND MISUNDERSTANDING ARE TO BE AVOIDED.

SAN FRANCISCO, November 8.

Midari Komatsu, editor of Chugai Shinron, an influential vernacular magazine of Japan, and now representing several newspapers of Tokyo, has just arrived in San Francisco from Japan on a tour of the world. While in the United States he will investigate social and economic conditions. Mr. Komatsu is now confining himself to journalistic work, but he was formerly connected with the diplomatic service, having been secretary of the Japanese legation at Washington prior to 1910 and afterwards director of the Japanese Foreign Affairs Bureau and secretary of the Central Council in Korea. He is a graduate of law of Yale and of political science of Princeton.

VIEWS INTERCHANGED.

In an interview with a Bee reporter Mr. Komatsu said that he had interchanged views on the Japanese immigration problem at length with the publisher of the Bee, V. S. McClatchy, and was agreeably surprised to find that Mr. McClatchy's views, which he understood represent more or less the views of most Californians, are entirely misunderstood in Japan, because of various publications made in that country concerning those views.

"I do not find," said Mr. Komatsu, "that Mr. McClatchy is unfriendly to Japan or to the Japanese people. It seems to me, on the contrary, that he is as anxious as I to prevent ruptures between the two nations, so long friendly, and that he is quite in earnest in believing that a continuance of existing conditions is certain to produce friction and misunderstanding. I find myself in accord with him in certain matters connected with the present problem, and know of no reason why the minor points on which we differ can not be satisfactorily solved.

RACE NOT ASSIMILABLE.

"For instance, we agree that the white race and the Japanese race, at present, for biological and other reasons, are not assimilable; that the existence in either country of a large unassimilable element of nationals of the other country, controlling land and its products, and entering into disastrous economic competition with the natives, must inevitably result in a racial conflict and international misunderstanding. If conditions in California, or elsewhere in the United States, are reaching that state it is to the interests of both nations to correct them.

"If exclusion of Japanese immigration will prevent a misunderstanding, Japan will not object to taking necessary steps to correct any defects in the gentlemen's agreement which are responsible for present conditions. Japan is really losing the better class of her farmers in those who come to the United States, and would prefer to keep them. But she is also solicitous that in any adjustment of the matter there should be no real or apparent discrimination against her people, and that those who remain in California, particularly, should be fairly treated.

NOT BADLY TREATED.

"The impression prevails in Japan that the Japanese in California during the past year's campaign on exclusion have been badly treated. I find that it is not so; that they have nowhere been interfered with or hindered in business or insulted or abused personally. It has been difficult for the Japanese people to understand that an actual campaign for rigorous exclusion of Japanese could be conducted in such perfect good temper and without boycott or other offensive measures against the Japanese. I am led to believe therefrom that Mr. McClatchy properly represents California sentiment when he says that neither the law nor the people contemplate any interference with

vested rights or any prohibition to Japanese now here legally from following any occupation or conducting any business, with the reservation only that they may not own or lease agricultural lands."

Mr. Komatsu felt the alien land law, while applied to all aliens ineligible to citizenship, would be regarded by the Japanese as less discriminatory if it had been applied to all foreigners, or at least to all foreigners who had failed to be naturalized or to take out first citizenship papers.

SOME OBJECTIONS.

He objected also to such change in the American Constitution as would make children born in this country ineligible to citizenship unless both parents are eligible to such citizenship. He conceded that present methods are preventing the making of good American citizens out of many Japanese born here—he referred to separate Japanese schools and the practice of sending children back to Japan for education—and conceded that such schools should be abolished and such plan discontinued if the children are to enjoy American citizenship. He suggested, however, that the proper solution of the problem would be for the United States to follow Japan's plan of naturalization which is applicable equally to all foreigners, with no exception, and not give citizenship to the children of foreigners born within the country. Such children can not become citizens of Japan save through the usual channel of naturalization, though the time required for them is shortened to 3 years, while for other foreigners it is 10 years. What Japan contends is equal treatment, he added, not special privilege of citizenship for her people in the States.

EXTREME METHODS DECRIED.

Mr. Komatsu frankly expressed himself as feeling that the Japanese were not treated in accord with their merits when the objectionable classes of Europeans were classed as eligible for American citizenship, while the Japanese are barred. He commented on the fact that 100,000 Chinese had been called to France to serve during the war, and had been sent home with the gratitude of France and her allies. He felt that the work of the Japanese in producing the food for California was not properly appreciated, and would not be unless the Japanese were to leave in a body.

He decried some of the extreme methods of his countrymen in connection with their campaign against the initiative measure, and thought some of the activities had served only to prejudice the country against the Japanese. He thought any attempt to appeal to the courts in the matter ill advised, and that it was unlikely to avail anything.

In his opinion, this problem can be solved not by any legal method, but rather by sympathetic consideration on both sides, based upon the principles of equity.

[From the Sacramento Bee, July 26, 1920.]

PHYSICAL ASSIMILATION OF JAPANESE REPUGNANT TO BOTH NATIONS AND OUT OF QUESTION.

The following article on the Japanese question by V. S. McClatchy, publisher of the Bee, appeared in the Los Angeles Examiner yesterday and was sent on request for a statement in answer to the principal points made for the Japanese during the recent congressional committee hearings:

Complying with your request for answers to main points made in behalf of the Japanese during the congressional committee hearings, the answers can be only indicated in the space permitted.

CAN NOT ASSIMILATE.

1. The Japanese can assimilate and make good citizens.

Answer. Physical assimilation by intermarriage is repugnant to both races and out of question.

Japanese, with few exceptions, do not assimilate socially, economically, and in ideals, and do not furnish good material for American citizenship for three reasons, namely:

They can not do so because of heredity and a religion which recognizes the Mikado as a living God to whom they owe not only allegiance but existence.

They may not do so because Japan does not permit. Every Japanese, even when born here, is claimed as a Japanese citizen, is taught religion, ideals, and loyalty in Japanese schools, and may not renounce his allegiance save with consent of Japan, which, so far as known, has never yet been given.

They will not do so, as shown in Hawaii and California, partly because they are taught their race is superior to all others, the only one whose ruler is a living God, and destined eventually to conquer or to lead all other nations.

CONCENTRATED ESSENCE.

2. One hundred thousand Japanese in California's population of over 3,000,000 can do no harm.

Answer. This is not a weak 3 per cent Japanese solution spread evenly over the entire State; it is a concentrated essence, applied in a few spots, where the plan of peaceful penetration can secure best results with least effort. Over three-quarters of those 100,000 Japanese are in a few communities in 7 of our 58 counties.

BIRTH RATE INCREASING.

3. The Japanese birth rate has been overestimated. It will decrease, as does that of all immigrant peoples.

Answer. Late figures from the State board of health show the Japanese birth rate in this State to be three times that of the whites, although the Japanese have only one adult female to four males, while the proportion among the whites is one to one.

The Japanese birth rate in Hawaii keeps up, though the Japanese are in control there. In California the Japanese are openly urged to maintain their birth rate and acquire land as the surest means of establishing the Japanese race in this country. If sufficient Japanese women were admitted to establish an equilibrium between the sexes, as argued before the committee, these women need average only one-third as many children as those now here average, and yet the Japanese birth rate would remain three times as great as that of the whites.

NO VALUE TO SMALL FARMERS.

4. Land will lie idle and production decrease without Japanese.

Answer. Better both should happen than that the State, and eventually the Nation, become a principality of Japan. As a matter of fact, Japanese labor is of no value to small farmers, because it insists on interest in leases. Also remember the Japanese already here will be protected in all rights. They can make very high wages on the farms and will increase in number through birth rate.

ACQUIRING RICH LANDS.

5. The Japanese have used waste and unreclaimed land.

Answer. That is true in a few instances only. They are fast acquiring control of the greater part of the rich irrigated lands of the State. In some counties they already control between 50 and 75 per cent of such lands.

RIGHT TO OWNERSHIP.

6. The initiative measure is unfair and a violation of treaty rights. Short leases, at least, should be permitted.

Answer. The treaty deliberately refrains from giving Japanese the right to own or lease agricultural land. The law of 1913 and the initiative measure specifically accord treaty rights, but no others, to all aliens ineligible to citizenship.

Because the Japanese have persisted in evasion and violation of the present law, the initiative has sought to close the legal loopholes.

Long leases are as bad in effect as ownership, since they give control of land and drive out the whites. Three-year leases become in effect long leases through renewals; and because once the Japanese occupy the land it is difficult to lease to others.

MUST LOOK OUT FOR POSTERITY.

7. The fatherhood of God and brotherhood of man should induce us to offer homes to the Japanese who wish to come and are willing to work.

Answer. The principles invoked do not require a man to turn over his home, his lands, and his goods, acquired for his children and grandchildren, on the demand of an unknown stranger who has a place of his own but prefers a better one. But that is precisely what is involved in admission of the Japanese. The law which applies in this case is the law of self-preservation. Is this country to be preserved for the whites or is it to be turned over to the Japanese? Choose! And choose now—while you may.

POPULATION.

That the West is not unjustifiably alarmed is clearly shown by the appended population statistics.

In considering these statistics it must be borne in mind that it is an exceedingly difficult thing to take an accurate census of a Japanese colony in America, because of the inability of many of the Japanese to speak good English, and largely because of the disinclination of the Japanese to be counted.

The figures of the State Board of Control of California were scrupulously and carefully compiled, and are more accurate than the figures of the United States Census Bureau. They were not hurriedly prepared, and it can be reliably said that they are below the actual number due to the determination of the board to present figures of actual count only and leave out any consideration of estimate, however accurate they might know that estimate to be.

It must also be realized that a Japanese born in the United States is accorded all of the privileges of American citizenship and recognized as an American citizen, but Japan considers an American-born Japanese a Japanese national, and Japanese born in America are Japanese at heart with a true allegiance to Japan and merely technically Americans under our law. It is readily understandable that he is and must be a Japanese at heart. Unlike most aliens who come into our midst, they are a race and a nation unto themselves, welded together by bonds of ages-old traditions, religion, and customs, and by mutual ideals, hopes, and aspirations.

Japanese born in the United States are educated in their native tongue and instilled with Japanese ideals and love of country. Thousands of American-born Japanese are sent to Japan to be educated and then returned to this country to accept the privileges of American citizenship without at heart revering those privileges and holding always the love of Japan foremost in their hearts and respecting and revering only one citizenship and one allegiance; the allegiance they owe Japan and their Japanese citizenship under the law of Japan.

The population of Japan according to the census of the Empire recently completed is:

Japan.....	55,960,000
Korea.....	17,284,000
Formosa.....	3,761,000

Total population of Empire.....	77,005,000
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The population of Hawaii according to the United States Census of 1920 is 255,912, of which number the Japanese population is 109,274.

Reliable estimates indicate a much larger Japanese population in Hawaii, including between 13,000 and 20,000 minors born in Hawaii and now temporarily in Japan for education as Japanese citizens.

The population of California is 3,437,609; the number of Japanese according to the United States census is 70,196.

According to the California State Board of Control and local Japanese authority the Japanese population in California exceeds 87,279, of which number 26,611 were born in the State and of those born in California about 5,000 are now temporarily in Japan for education as Japanese citizens. (Figures of Board of Control for Dec. 31, 1919.)

[From the New American, March-April, 1921.]

[Honolulu, T. H.; U. Okunura, editor.]

FACTS ABOUT JAPANESE IN HAWAII.

Japanese (1920 census).....	109, 274	Wash women	(c) ..	181
Japanese children in public and private schools.....	20, 650	Shop workers	(c) ..	276
Japanese-language schools.....	185	Contractors and builders.....	(c) ..	76
School teachers.....	480	Fuel dealers	(c) ..	73
Pupils.....	22, 146	Jewelers	(c) ..	28
Buddhist temples, including a \$1,000,000 Nishi Hongwanji temple.....	86	Druggists	(c) ..	18
Buddhist priests.....	94	Dry-goods merchants.....	(c) ..	12
Big Shinto shrines in Honolulu; many others throughout the islands.....	3	Shoe stores	(c) ..	4
Japanese-language papers.....	13	Dealers in fancy goods and toilet articles.....	(c) ..	42
Magazines and organ periodicals.....	15	Vegetable dealers	(c) ..	31
Organizations or associations.....	34	Butchers and fish-dealers	(c) ..	88
Big firms and factories.....	33	Bean-curd manufacturers	(c) ..	59
Christian churches.....	33	Bookshop keepers	(c) ..	14
Y. M. C. A.....	1	Grocers	(c) ..	839
Farmers.....	3, 098	Peddlers	(c) ..	38
Officials.....	(c) ..	Clerks in business houses.....	(c) ..	158
Physicians.....	(c) ..	Bank clerks	(c) ..	51
Dentists.....	(c) ..	Employees of stores.....	(c) ..	1, 797
Veterinarians.....	(c) ..	Clerks in offices.....	(c) ..	283
Chemists.....	(c) ..	Furnished or unfurnished house keepers	(c) ..	110
Nurses and midwives.....	(c) ..	Railroad employees.....	(c) ..	373
Masseurs.....	(c) ..	Draymen	(c) ..	351
Newspaper and magazine publishers, reporters, etc.....	94	Chauffeurs	(c) ..	510
Stockmen.....	(c) ..	Hotel keepers and employees.....	(c) ..	49
Dairymen.....	(c) ..	Restaurant keepers and employees.....	(c) ..	86
Fishermen.....	(c) ..	Billiard parlors and theater proprietors and employees.....	(c) ..	25
Carriage makers.....	(c) ..	Bathhouse keepers	(c) ..	269
Dyers and cleaners.....	(c) ..	Barbers	(c) ..	4, 150
Blacksmiths.....	(c) ..	Domestic servants.....	(c) ..	49
Sawyers.....	(c) ..	Actors	(c) ..	118
Carpenters.....	(c) ..	Geisha girls and harlots.....	(c) ..	23, 702
Painters.....	(c) ..	Plantation laborers.....	(c) ..	344
Photographers.....	(c) ..	Miscellaneous	(c) ..	1, 724
Tailors and dressmakers.....	(c) ..	Artisans and other skilled laborers.....	(c) ..	164
Laundrymen.....	(c) ..	Homesteaders.....	(a) ..	3
		Japanese banks.....		

Abbreviations: (c), Consulate investigation; (a), figures available in 1919.

JAPANESE SCHEME TO GAIN CONTROL OF HAWAII.

An article by Hon. Frank L. Coombs, Member of the Assembly of the State of California, and former speaker of the Assembly, former Member of Congress, and former minister to Japan. * * * Published in the Bee, Sacramento, Calif., November 25, 1920.

[From Sacramento Bee, Nov. 25, 1920.]

JAPANESE SCHEME TO GAIN CONTROL OF HAWAII SEEN AS FAR BACK AS 1892—FAR-REACHING PLANS FORMULATED IMMEDIATELY AFTER THE REVOLUTION, CALLED FOR JAPANESE ADMISSION TO CITIZENSHIP WHAT JAPAN CALLS DISCRIMINATION.

[By Hon. Frank L. Coombs, of Napa, formerly minister to Japan.]

A review of the Japanese problem suggests a grave misunderstanding as to the rights and the motives involved; that is, the rights of California and the motives of Japan. If Japan should place her demands upon grounds going to the question of international rights, then her purposes should be considered in determining whether she keeps within such rights. Attitude, concerning a particular policy, often becomes the essential of that policy.

JAPAN CLAIMS DISCRIMINATION.

Japan claims that we are endeavoring to discriminate to her prejudice in the policy embraced in the legislative act of 1913, supplemented by the initiative act of 1920. That would depend upon the motive of these acts, what particular methods they are intended to forestall. If Japan would consult her oftentimes repeated, and, we might say, insistent plans of expansion carried to our shores, she would find our answer in her own position. Pursuing this discussion in the language of temperance, such as should appeal to our own countrymen, the present condition, fast becoming embroiled in oriental misunderstandings, need not have come about. Japan claims that we are "discriminating" against her.

We would discriminate against any people whose object rested upon the same claims, claims that this country is a waste land, and that it is free to all people to take of it what they can. No other people make that claim, nor come here with that insistence.

Our discrimination, call it that, is based upon the motives of Japan, against which such discrimination only is invoked.

NOT MATTERS OF SURMISE.

These motives are not matters of surmise, but are ascertained through a long period of peaceful aggression, pursuing the same object, having in view the same ultimate accomplishment, and characteristic of the race.

Japan has said, "We seek to be a dominant power, and our object can be accomplished by increase of population and an accession of territory." In these, to them, "Two truths are told, as happy prologues to the swelling act of the imperial theme."

ONLY DIFFERENT METHOD HERE.

She has fought for and pursued this policy in the Orient, but, to the casual observer, it would seem unbelievable that she could contemplate the same conquest of America. The methods, only, are different. Yet, this is what she has avowed. At the present time, yes, for a long time, Count Okuma has been the oracle of the unrest in Japan.

He is now a very old man, and has perhaps for half a century by the force of his character been the aggressive thought of the empire. There still clings about him the traditions of that older time, the spirit which resisted the opening of Japan to western thought, and which is still the ruling spirit concerning her domestic affairs. The seclusion of her empire from that which she claims as a right in other lands would seem to be inconsistent, but it simply illustrates the idea in her of a superior contention.

TALK OF WAR.

In recent communications Count Okuma has set out what he deems to be the wrongs of Japan at the hands of our people. If quoted correctly, he suggests force as the alternative. Student agitations are now at hand in Japan discussing war. For what? Why, for a claim which she has immemorially and traditionally denied to others. He has summarized his contention in an expression to the effect that the Japanese must have domains in which to expand as a people. That the occupation and control of lands in America is a part of that, her policy. This we are not to resist for fear of being accused of discrimination, when the very import of her claim forces us to what they call discrimination.

Is there fear of such colonization on the part of the Japanese to justify us in deeming it a race menace?

If one will take time to read the startling detail of facts presented by Mr. V. S. McClatchy, of the Sacramento Bee, given to the House Committee on Immigration in July, 1920, he will conclude that it has ceased to be a matter of speculation.

How is it borne out by history?

HAWAII'S CASE.

For more than 30 years Japan has been furnishing Hawaii with labor for her fields under the contract system. In 1892 the monarchy of that beautiful land stood a declining power, yet a sovereign state, with her diplomatic representatives reaching the far corners of the earth. Students of history saw the decadence of this power, preying its speedy dissolution.

No people had studied it better or with more purpose than the Japanese. In 1892 the revolution came through a coup d'état, behind which stood a few Americans, with the stimulus given them by the encouragement of Mr. Stevens, the American minister accredited to that country.

CONTRACT LABORERS.

They took over the Government and hoisted the American flag. At that time and for some time prior thereto, there was a certain company in Japan, composed of some of her strongest men, men close to the Government and associated with certain Americans strong in the affairs of the Island Kingdom. Upon some basis of a wage per cent inuring to it, this company furnishes Hawaii with contract laborers, and there were then about 20,000 there.

Immediately following the revolution, it was the part of a far-reaching scheme to have these Japanese admitted to citizenship in Hawaii. Thus early did the people concerned so regard the quality of American citizenship that its ideals could be realized by the temporary change of allegiance, without knowledge of the character of the change, and that thus in a day and by a declaration they could be hedged about with the sanctity to which in their own country one had to be born.

That has always been with the Japanese the conception of naturalized citizenship; that is their open profession now. It is folly to think that a Japanese can "forswear all allegiance" to the country of his birth.

BLOCKED AMERICANS.

But to proceed; immediately upon the revolution in Hawaii I received a communication from high sources connected with the new American Government there to the effect that those in Japan associated with this company were furnishing obstacles to the American occupation, and that their future conduct was a thing to be viewed with apprehension.

It was apparent that the idea of citizenship didn't evolve out of any chaos attending the revolution, but that, in view of the previous knowledge of affairs around this tottering throne, it was preconceived and was to play a part in that drama. At any rate, it was a policy of aggression at a time when the breaking of a straw would have turned the course of empire.

Of course, these things are unimportant, save to show the initiative of a purpose which has become the tenor of successive policies.

CLEVELAND DISAPPROVES.

The acts of the American minister in Hawaii were repudiated by President Cleveland upon his coming into office in 1893, and much as Cleveland, in many respects, is to be admired, it is doubtful as to what might have been the destiny of the islands had the revolution waited upon his inauguration.

None of the facts related above are taken from official sources and there is no breach in giving them to the people.

If they are at all important, such importance grows out of the initiative of a policy half formed, it may have been, which has become the tenor of more dangerous conceptions.

JAPANESE GOVERNMENT AND CIVILIZATION.

The following article from the California Grizzly Bear, the official publication of the Native Sons of the Golden West, deals with Japanese Government and civilization.

[From the California Grizzly Bear, April, 1920.]

JAPANESE, BELIEVING MIKADO HEAVEN-ORDAINED, PLAN DOMINATION OF THE WORLD—THEIR LEADERS SAY JAPAN SHOULD BE HEAD OF THE LEAGUE OF NATIONS.

The historic designation of his Imperial Majesty, the Emperor of Japan, is "Mikado." "Mi" signifies august and "kado" means gate. The official name of His Majesty, however, is Tenno—the King of Heaven. The Mikado has no family name. The functions of the Mikado are clearly indicated by the significance of these titles—he is the mouthpiece of Heaven—the vice regent of God.

When he speaks, he voices the will of Heaven. Loyalty to the Emperor is, therefore, obedience to the principles of Heaven. No one may question his authority or the wisdom of his commands without convicting himself of treason against High Heaven and bringing upon himself the execration and anathema of "Japan—the Land of Gods."

REPRESENTS HEAVEN.

"To the Japanese people," says Dr. Inazo Nitobe, in "Bushido, the Soul of Japan," "he is the bodily representative of Heaven on earth, blending in his person its power and its mercy."

* * * * *

SUBJECTS BELIEVE IT.

The acts and utterances of the Mikado's men, from the highest to the lowest, testify to the firm conviction of their belief in the divine nature and prerogatives of their ruler.

"I AM THE STATE."

Etsujiro Uyebara, member of the Imperial Japanese Parliament, and head of one of the many war missions from the "Land of the Rising Sun" to the United States in 1917, says, in his book, "The Political Development of Japan":

"The Emperor of Japan can say without hesitation, 'L'Etat c'est moi,' more effectively than Louis XIV not because he can subject the people to his will but because he is morally so recognized. Theoretically he is the center of the State as well as the State itself. He is to the Japanese mind the Supreme Being in the Cosmos of Japan, as God is in the universe to the pantheistic philosopher. From him everything emanates; in him everything subsists; there is nothing on the soil of Japan existent independent of him.

"He is the sole owner of the Empire, the author of law, justice, privilege, and honor, and the symbol of the unity of the Japanese Nation. He has no Pope or Archbishop to crown him at his accession. He is supreme in all temporal affairs of the State as well as in all spiritual matters; and he is the foundation of Japanese social and civic morality."

Mikadoism, or Emperor worship, is the sheet anchor of patriotic fervor in Japan—the soul of the body politic. The vast majority of the people have no other religion.

"The divine right of the Emperor is the fundamental principle on which the Japanese polity was first established and on which it still rests."

NEVER LOSE IT.

"Many changes have taken place from time to time in the form and mechanism of her Government, but its fundamental polity, a unique fact in political history, has never been altered, shaken, or transformed. It appeals, therefore, most intensely to the Japanese people."

* * * * *

"The foreign religious, philosophies, ethical theories, and political principles which have come into Japan from the earliest ages of her civilization, however great their influence generally, have done very little, if anything at all, to modify the traditional attitude of the people toward their Emperor."

PARENT OF MANKIND.

Moreover, an editorial in the Niroku Shimbun of Tokyo, a translation of which was published in the Japan Advertiser, May 9, 1919, reads:

"The imperial family of Japan is the parent not only of her 60,000,000, but of all mankind on earth. In the eyes of the imperial family all races are one and the same.

WOULD HEAD LEAGUE.

"All human disputes, therefore, may be settled in accordance with its immaculate justice. The League of Nations, proposed to save mankind from the horrors of war, can only attain its real object by placing the imperial family of Japan at its head, for to attain its object the league must have a strong punitive force of a supernatural and superracial character, and this force can only be found in the imperial family of Japan."

VITAL TO US.

The study of this phase of their character must be given consideration, for it is fundamental. The American people do not realize this element of strength in the political activities of the people of Japan, and the Japanese know it. Naoichi Masaoka, editor of "Japan's Message to America," significantly soliloquizes: "How many Americans of to-day understand what this Mikado is? A moment's consideration of this

question will show that the Americans' knowledge of Japan has little improved since the times of Mr. Harris"—the first consular representative of the United States in Japan. When the American people realize the creed of Japan—the concept and constitution of the people in relation to the throne—many of the problems hitherto incomprehensible to the mental processes of the Western World will be understood.

THEIR PROMISED LAND.

We can then understand why the Japanese believe they have been "given facilities to serve as interpreters of the Orient, and to represent the former before the Occidentals;" why their leaders urge "taking advantage of the present war to make a confederation of all the Asiatic nations," and why "China and the South Sea Islands" are "at present the promised land" to Japan.

THE MENACE.

The creed of Japan explains why the Japanese are self-centered; why they are egoistic; why they are nonassimilable. It explains the declaration of Dr. Sidney L. Gulick in his book "The American-Japanese Problem"; why they believe they "are inherently superior to the white man, not only in economic efficiency but in brain power, general culture, and moral character." This creed constitutes the menace of Japan. The logic of this creed and system of government will admit of no program less ambitious than world domination. Japan's "place in the sun" will be determined by the results of the inspiration arising from this belief and the consequent unity of purpose.

Men who think in terms of world politics and understand the process of empire building realize that Japan is slowly but surely winning her goal. This is no idle dream.

EXPANDING.

Within the memory of men still living she has "annexed" Formosa and Korea; she has "penetrated" Manchuria and Mongolia; she has "traded" places with Germany in the Province of Shantung, China; and she has created a situation in Siberia that requires her presence there as guardian of the peace. The total area acquired by Japan in the last 25 years is equal to her original territory. The logic of Japan's creed and system of government is convincing enough, but her statesmen amplify this in terms about which there can be no doubt.

* * * * *

MUST BE AGGRESSIVE.

Dr. Kambe, of the Imperial University of Kyoto, states: "As things now look, it would seem that there is nothing but for her to take an aggressive attitude. * * * To Japan at present the promised land is China and the South Sea Islands.

"The Japanese are a patient and persevering people. They labor and wait. They are, says Baron Shimpel Goto, in 'Japan's Message to America,' the 'immediate attendants of the Creator.'"

FOR A CENTURY.

Baron Kaneko Kentaro in the book "Great Japan," says: "Our present welfare and happiness is nothing to us when compared with an illustrious past and a great future for our family and our nation. Thus looking forward to our future, we constantly strive to mark out 'the grand policy for a century to come.'"

* * * * *

Mme. Uta-ko Shimoda, principal of the Jissen Girls' School, in "Japan's Message to America," states: "Moreover, we have with us a chief magistrate who is peerless in the world and a national ideal that never changes."

In working out this grand policy insidious propaganda, peaceful penetration, and military force are employed. We have an example of "military force" in the "annexation" of Korea.

In the matter of peaceful penetration the Hawaiian Islands is to Japan an example of patience well rewarded. In 12 years the Hawaiian Islands will be under the political control of Japanese born under the jurisdiction of the United States, but it should not be forgotten that Japanese "made in America" are Japanese; that they have a "national ideal that never changes."

The Japanese excel in the art of diplomacy, being past masters of oriental finesse. They understand the psychology of silence and practice it in their social intercourse with foreigners.

They assume an air of sphinxlike mystery. They withhold, in their international relationships, facts of vital concern to mutual understanding. It is almost impossible to learn the whole truth from any Japanese. Their object seems to be twofold: First, it enables them to assume an air of authority over knowledge you do not possess, and, second, it provides them with a weapon of self-defense—the rôle of “victim of misunderstanding.”

They have been “misunderstood” from time immemorial.

* * * * *

Marquis Shigenobu Okuma, the Premier of Japan, “taking advantage of the present war,” presented the 21 demands to China; and some apprehension was felt in this country for China’s safety. The selfsame marquis cabled the Independent of New York, April 12, 1915, that “The uneasiness and suspicion in the United States in connection with Japan’s negotiations at Peking are based on misunderstanding and misinformation scattered broadcast by interested mischief-makers.”

We harbor no ill-will toward the Japanese; we have no hymn of hate in our hearts. The best evidence of this is the concrete example of service rendered. For 50 years our institutions of religious and social betterment have maintained in Japan, at an annual expense of millions of American dollars, missionaries, teachers, and medical experts to instruct the Japanese in the arts of the higher life, the sciences, and the care of the body. These institutions function in Japan to-day.

We must, however, be just to ourselves as well as generous to others. We must preserve the character of our race by the assimilation of those who remain in our midst. The theocratic form of Japan’s system of government precludes the idea of race equality. This eliminates the possibility of assimilation and constitutes a danger to our body politic. Large and increasing numbers of nonassimilable aliens in our midst are a menace to our institutions and Government.

NATURALIZATION OF JAPANESE.

Following is a letter written by Mr. V. S. McClatchy, publisher of the Sacramento Bee, of Sacramento, Calif., to Mr. H. H. Raege, of the national legislative committee of the American Legion, on the subject of naturalization of Japanese.

There is also appended an article from the San Francisco Chronicle of November 26, 1920, and an article from the Sacramento Bee of March 12, 1921.

There is also appended an excerpt from the Japanese Yearbook for 1919 with regard to naturalization of aliens in Japan.

WASHINGTON, D. C.,
April 19, 1921.

H. H. RAEGE, Esq.,
*National Legislative Committee, American Legion,
Woodward Building, Washington, D. C.*

DEAR MR. RAEGE: Inclosed find memorandum of the data desired by you in the matter of naturalization of Japanese under the act of 1918.

Sincerely,

V. S. McCLATCHY.

THE QUESTION OF NATURALIZATION OF JAPANESE UNDER THE ACT OF MAY 9, 1918.

WASHINGTON, D. C., April 16, 1921.

The act of May 9, 1918, was passed by Congress, as similar acts had been passed at the conclusion of other wars, to permit the naturalization of aliens who had served the country during the war with either land or sea forces. That act was construed in a number of cases to authorize the naturalization of any alien whatsoever, and under it there had been admitted to citizenship, according to letter from the Department of Justice at Washington March 12, 1921, 218 Japanese; 104 of these were admitted by the United States District Court at Honolulu and the balance by courts in various parts of continental United States, the largest number, 25, being admitted by the Supreme Court at Washington, D. C., and the United States District Courts at Boston and Philadelphia coming next with 18 each.

It has been claimed that Congress did not intend to sanction under this act the naturalization of such aliens as are expressly declared ineligible to citizenship under our laws, and that a proper legal construction of the act will not support the naturalization of Japanese or members of any race not eligible to citizenship. That contention has been supported by a number of court decisions since, as hereafter indicated, and has received the approval of the former Department of Labor as a matter of department policy. The statement has been made in print, I think, that the new Department of Labor has indorsed the same policy.

HOW THE POLICY ORIGINATED.

In Hawaii a large number of Japanese were enlisted in the Army and Navy forces of the United States, though few, if any, of them left the islands. Many of them applied for citizenship under the act of 1918 and the Federal court passed favorably upon a number of applications. The letter of S. C. Huber, United States attorney at Honolulu, to Hon. James D. Phelan, March 15, 1921, shows that William Ragsdale, chief naturalization examiner of the bureau of naturalization in Hawaii, and Huber, acting for the Department of Justice as Ragsdale's attorney, objected in these cases before the court, and even after the letters of naturalization had issued, filed petitions for cancellation of the letters in over 100 cases. It was only after notice from Richard K. Campbell, commissioner of naturalization, and Ragsdale's superior officer, to discontinue the actions begun, that these cases were dismissed. Huber's contentions before the court agreed with the views of the law hereafter outlined.

Letters from Hon. Benjamin F. Bledsoe, judge of the United States District Court, Southern District of California, to Hon. James D. Phelan, February 18, 1921, to be found in Congressional Record, March 1, 1921, states that on March 18, 1919, a Japanese named Myamoto applied to his court for naturalization under the act of 1918. Frederick K. Jones, naturalization examiner of the district, held that the act of 1918 applied to Japanese as well as to all other aliens and presented a memorandum from his superior, Deputy Commissioner of Naturalization Crist, to that effect. Judge Bledsoe, on a cursory examination of the law, found no reason to differ from their views and granted the application. Subsequently he saw reason to question his decision in the matter and afterwards entirely reversed it.

THE LAW IN THE CASE.

In California there has been refusal on the part of various officials and courts to grant the Japanese the privilege of citizenship claimed under certificates of naturalization granted to them in Hawaii and elsewhere under the act of 1918, and there have been already various court decisions on the point.

Ichizo Zato was granted naturalization by the United States District Court of Hawaii in January, 1919. The county clerk of Sacramento County, Calif., declined to register him as a voter and suit was commenced by Zato. The superior court of the county decided against him and this decision was confirmed by the District Court of Appeals for the Third District of California, February 26, 1921. The court's opinion follows generally the lines indicated in the Bledsoe decision, below.

On February 24, 1921, Judge Bledsoe, for the United States District Court, Southern District of California, rendered a decision declining to permit the naturalization of En Sk Song, a Korean and subject of Japan, who applied, under the act of 1918, as an honorably discharged soldier of the United States Army. Judge Bledsoe called attention to the fact that section 2169 of the naturalization laws limits the privileges of naturalization to free white persons and those of African nativity or descent, and that members of the yellow and brown races are, therefore, excluded from naturalization to "any alien," etc., such expression has been used in previous acts of similar character, when it was never claimed that the language could be made to cover aliens ineligible to citizenship under the provisions of section 2169. In addition, he calls particular attention to the fact that the act of 1918 provides specifically that nothing therein shall repeal or in any way enlarge section 2169 of the Revised Statutes, "except as specified in the seventh subdivision of the act and under the limitation therein defined."

ATTITUDE OF DEPARTMENTS OF LABOR AND JUSTICE.

While it is evident from the history of these cases that, in 1919 at least, the naturalization officers under the Department of Labor were recommending to the courts that Japanese were entitled to naturalization under the act of 1918, William B. Wilson, the Secretary of Labor under the Wilson administration, has made it plain by published correspondence that during this year at least, and presumably for some time

previous thereto, his department has held in accordance with the decision above quoted of Judge Bledsoe, that Japanese are not entitled to naturalization under the act of 1918, and that naturalization examiners and commissioners throughout the country are under instructions to act in conformity with that policy.

Similarly, the attitude of the Attorney General's Office, under A. Mitchell Palmer, during the last few months of the Wilson administration, is indicated by a published letter of Mr. Palmer to the effect that while his department had not given an opinion as to the intent of the act of 1918, all United States district attorneys throughout the country had been instructed to act in harmony with the policy established by the Department of Labor and to assist naturalization officers in contesting any applications to the court for naturalization of aliens under the act of 1918 when such aliens are ineligible under the law to American citizenship.

The United States in granting citizenship to Japanese under such conditions is under full notice that Japan has not granted and will not grant expatriation of these men; that they are claimed under the laws of Japan as her citizens, subject to all duties and obligations as such; that they are listed in Japan's census and military lists and are subject to call at any time for military or other duty; and that a refusal to comply with such an order would insure them being posted as traitors in their native prefecture. It is quite likely, however, that such information was not officially before the courts at the time letters of naturalization were granted.

Japan is more strict in this matter than any other nation. Under her law no Japanese, wherever born, may expatriate himself without formal consent of the Government. Such consent can not be secured in any case after he has passed his seventeenth year, and only before if the applicant makes request himself when between the years of 15 and 17 years of age, with consent of guardian, or through his father or guardian before his fifteenth year. An application of this character from the Pacific coast was denied within the past few months, according to a Japanese newspaper, of San Francisco, on the sole ground that the applicant, while not 17 according to our method of estimating age, was more than 17 according to the Japanese method (the Japanese count age of the individual from conception and not from birth). Evidently, therefore, none of the 218 Japanese on whom citizenship has thus been conferred (apparently illegally) can secure permission to expatriate from his Government.

About 30,000 Japanese have been born in California, and probably 25,000 of the number are still living. All are entitled to the full right of American citizenship when they reach the age of 21, without examination or formality on their part. And yet Japan has granted right of expatriation to only 21 of these subjects in California.

In Hawaii, in the past 10 years, over 40,000 Japanese children have been born. There are already 600 Hawaiian-born Japanese 21 years old and entitled to vote, and each year adds a steadily increasing number. In 1930 the total will be 25,000 (Joseph Timmons) and yet of all this number Japan has granted this right of expatriation to only 22, all within the past four years.

In the event of any trouble with Japan none of these men could act with freedom as an American citizen, and presumably would be treated as traitors if captured by Japan.

The wisdom of conferring citizenship under such conditions may well be questioned, even if such action were legal.

V. S. McCLATCHY.

[From the San Francisco Chronicle, Nov. 26, 1920.]

NATURALIZATION OF JAPANESE—TRANSFER OF ALLEGIANCE IS UNTHINKABLE TO THE MIND OF NIPPON.

If the proposal to give the Japanese now in the United States "full civil rights," which is reported to be one of the features of the new treaty now being negotiated with the Mikado, means giving them the right of naturalization it might be well to consider the attitude of Japan on that subject.

One witness, who has given a good deal of attention to the possibility of Japanese naturalization in foreign countries, is A. M. Pooley, formerly Reuter's correspondent at Tokyo, and the author of two useful books on Japan—Japan at the Cross Roads and Japan's Foreign Policies—books, by the way, that the Japanese Government has forbidden to be sold, read, or possessed by subjects of the Mikado.

Out of his knowledge of the Japanese philosophy of the relation between subject and State and as the result of much inquiry among Japanese, official and otherwise, Pooley says the naturalization abroad of a Japanese subject is a thing unthinkable. Imperial ministers, nobles, and commoners alike agreed that it is not possible to alienate the allegiance of a son of Nippon. Japanese law does not recognize foreign naturalization of a Japanese subject. But stronger even than law is the Japanese family and

clan system, under which no individual exists except as part of a family, which is part of a larger group, which in its turn makes part of the State, and a State with a divine origin in the sun goddess. No individual can transfer his allegiance to a foreign government without repudiating his racial traditions and cutting all his family ties, a thing, says Pooley, abhorrent to filial piety and absolutely unthinkable to a Japanese.

It has been argued in behalf of the possibility of making loyal Americans out of Japanese that the common custom of adoption in Japan means a transfer of allegiance so complete that if need be an adopted son will fight for his foster father against his own father and brothers. Japanese history shows many such instances. But it is obvious that this philosophy of adoption did not contemplate a Japanese son entering an alien family and that it does not in any wise conflict with the supreme duty of loyalty to the divine head of the State.

Under Japanese law a foreign male may become naturalized only by getting himself adopted by a Japanese family and taking a Japanese name, and a foreign female only by marrying a Japanese subject. For an alien head of a family to go to Japan and obtain naturalization is sheer impossibility, Pooley points out. This illustrates the theory that every member of a Japanese family is a child of the Yamato race and a subject of the sun goddess and her line, that none others can be, and conversely that no Japanese can ever be anything else.

It is so impossible for a Japanese to have any other opinion on this matter that Pooley says the only conceivable reason that would impel the Mikado's Government to propose or to accept a proposal for naturalization of Japanese abroad is the desire to have its rank as a first-class power recognized in every possible way. And even then, he says the Government would not, and could not, ever acknowledge a transfer of allegiance by any Japanese.

The reasoning is sound. It may be taken as a certainty that if the new treaty contains a provision for American naturalization of the Japanese now in this country it is only because Japan is mortified by the denial to her subjects of a privilege granted to the people of other countries, and not because she wants the privilege exercised, or that she would ever recognize an oath of naturalization. That, says Pooley, no Japanese Government could do and live.

[From the Sacramento Bee, Mar. 12, 1921.]

COURTS RULE CONGRESS DID NOT INTEND TO NATURALIZE JAPANESE—CALIFORNIA THIRD DISTRICT COURT OF APPEALS HAS DENIED PETITION OF ORIENTAL WHO SERVED IN ARMY AND WAS GIVEN NATURALIZATION PAPERS IN HAWAII.

Congress passed on May 9, 1918, an act under which aliens who served with the United States forces could be absolved from the probationary period imposed on aliens generally under the naturalization laws, and could acquire citizenship at once on application to the proper court.

Under this act a number of Japanese in Hawaii, who served in the Army in the islands during the war, sought to obtain naturalization papers from the courts in Hawaii. It is said several hundred Japanese were thus admitted to citizenship.

Citizenship was conferred also by the United States district court at Washington, D. C., on the Japanese steward of the President's yacht *Mayflower*, in 1919, though whether under presumed authority of the act of 1918 or for other ground does not appear in the printed reports.

The propriety of this action of the court was criticized in continental United States, where it was held that the act in question could not have intended to confer citizenship on aliens ineligible to citizenship under the Constitution, that its object was only to permit those eligible to such citizenship securing the privilege without waiting the customary five years called for by the naturalization laws.

CASES IN CALIFORNIA AND OREGON.

In California several Japanese coming from Hawaii with citizenship certificates, granted by the court referred to, were denied registration by the county officials here and suit was commenced in one case.

In the case of Ichizo Zato, admitted to citizenship in the United States District Court of Hawaii in January, 1919, the county clerk of Sacramento County, Calif., declined to register him as a voter. This action was upheld by the Superior Court of Sacramento in the text which followed; and on February 26 the third district court of appeals rendered a decision sustaining the superior court. The decision calls attention to the fact that section 2169 of the naturalization law, following the Federal

Constitution, refuses naturalization to persons of the yellow race. The decision also declares that in matters of naturalization the laws place the State and Federal courts on the same plane, and neither has greater force or effect than the other in order of judgment.

There is also under consideration the case of Richard Sato, who applied for naturalization under the Army act in the district of Oregon, which case will probably go to the circuit court of appeals of the ninth circuit and, in such way, a judicial determination of the true meaning of the act will be secured from Federal authority.

COMMISSIONER OF LABOR CONCURS.

United States Senator Phelan, prior to giving place to his successor, entered protests with the various departments against any action looking to the use of this act of Congress as authority for conferring citizenship upon Japanese or other aliens, ineligible to such citizenship under the Federal Constitution.

From A. Mitchell Palmer, Attorney General of the United States, Senator Phelan recently had an answer to his inquiry as to the methods of handling cases in which naturalization was claimed under the Army act. In that letter the Attorney General states that his department has not yet rendered any opinion on the construction of the act in question, but he has called the attention of the several district attorneys throughout the country to the views of the Commissioner of Naturalization of the Department of Labor to the effect that the act of May 9, 1918, was not intended to confer naturalization upon aliens ineligible to citizenship, and that he has imposed upon such district attorneys the duty of appearing in all such cases and opposing such applications for naturalization.

The Japan Yearbook for 1919 contains (p. 37) the following with regard to naturalization:

NATURALIZATION IN JAPAN.

A foreigner may become a Japanese subject under this condition, viz: (1) That one has been domiciled in Japan for at least five years continuously; (2) is at least 20 years of age and possesses civil capacity according to the law of one's native country; (3) is of good morals; (4) possesses property or ability to maintain oneself; (5) possesses no nationality or will lose it on being made a Japanese subject.

A foreigner may also become a Japanese subject by marrying a Japanese woman on condition of being adopted into her family and assuming the family name of the wife, as did late Lafcadio Hearn, who became a Japanese subject by complying with this formality and acquired a new name, Koizumi Yakumo. Permission of the home minister is to be obtained in this form of naturalization, the condition required being very simple, i. e., continuous residence or domicile in Japan for at least one year and good morals. Another simple process of acquiring Japanese nationality consists in being adopted by a Japanese subject. Naturalization record still remains comparatively insignificant, the bulk being supplied by Chinese living in Formosa. The home office's report contains this list:

	Marry- ing into family.	Adopted.	Natural- ized.	Rehabil- itated.
1913.....	2			1
1914.....			5	1
1915.....	5	1	6	3
1916.....			11	9

ANTI-ALIEN LAND LAWS.

The anti-alien land law of California is no radical departure from American custom. It is based on the common law of England. For many years a number of the States have forbidden or restricted ownership of land by foreigners. Since January 1, 1921, 13 States have enacted laws barring from ownership of land aliens ineligible to citizenship, or have paved the way for the passage of such legislation by providing for necessary amendment to their State constitution, or submission of the question to a referendum, or have

memorialized the Congress indicating general accord with California's position and demanding action by the Federal Government.

DIGEST OF ALIEN PROPERTY RIGHTS IN THE SEVERAL STATES AND TERRITORIES AND UNITED STATES PUBLIC LAND LAWS.

Aliens have the same rights as citizens:

- Alabama. (Const. 1, sec. 34.)
- Arkansas. (Const. 11, sec. 20.)
- Colorado. (Const. 11, sec. 27.) (An amendment to this section concerning the ownership of property by aliens ineligible to citizenship will be voted on by the people at the next general election for members of the general assembly.)
- Connecticut. (Resident aliens and citizens of France.)
- Florida. (Const. D. of R., sec. 18.)
- Georgia. (Friendly aliens.) (Code of 1911, sec. 2172.)
- Idaho. (C. S. 1920, sec. 5327.)
- Iowa. (Const. 1, sec. 22.)
- Maine. (Rev. Stats., ch. 78, sec. 2.)
- Maryland. (Ann. Code.)
- Massachusetts. (R. L. 1902, p. 1267.)
- Michigan. (Const. xvi, sec. 9.)
- Mississippi. (Resident aliens.) (Ann. Code, sec. 2272.)
- Nevada. (Const., art. 1, sec. 16.) (The repeal of this section was proposed by the legislature at the session of 1921. The Constitution of Nevada requires it to be again acted upon at the session of 1923. If approved by that legislature it will be submitted to the people for a referendum vote in November, 1923.)
- New Hampshire. (Pub. Stats., 1901, p. 438.)
- New Jersey. (1 Comp. Stats., p. 27, sec. 1.)
- New Mexico. (Const. 11, sec. 22.) (An amendment to this section prohibiting aliens ineligible to citizenship from owning or leasing real estate will be voted upon by the people in September, 1921.)
- New York. (Alien friends.) (Bird, p. 7269.)
- North Carolina. (Rev. Stats., 1905, sec. 182.)
- North Dakota. (Rev. Stats., 1913, sec. 5256.)
- Ohio. (4 P. and A., sec. 8589.)
- Oregon. (L. O. L., sec. 7172.)
- South Dakota. (Const. vi, sec. 14.)
- Tennessee. (Ann. Code, 1917, sec. 365.)
- Virginia. (Friendly aliens.) (Code 1919, sec. 66.)
- West Virginia. (Const. 11, sec. 5.)
- Wisconsin. (Const. 1, sec. 15.)
- Wyoming. (Const. 1, sec. 29.)

EPITOME OF LAWS ON LIMITATIONS ON RIGHTS OF ALIENS TO HOLD PROPERTY

ARIZONA.

Act approved February 26, 1921: Aliens ineligible to citizenship are prohibited from owning or leasing land. Treaty rights of all aliens protected. Possession of agricultural land hereafter acquired by an alien in satisfaction of a lien or in good faith to secure a debt limited to two years. This act repeals all acts or parts of acts in conflict herewith.

Statutes 1917, page 57: No alien or corporation with more than 30 per cent of stock owned by aliens may own land; property acquired by operations of law must be sold within five years unless owner becomes naturalized, or escheat to State; five-year leases permitted. Exception, mining lands.

CALIFORNIA.

November 2, 1920. (Referendum vote of electors.)

Land ownership by aliens limited to those eligible to citizenship. Treaty rights of aliens safeguarded in act. The United States treaty with Japan provides that the Japanese in the United States "May own or hire and occupy houses, manufactories, warehouses, shops, and premises, and lease land for residential and commercial purposes." The treaty does not give the Japanese here the right to own agricultural or mining land. (See also memorials to the Congress by the legislature relative to naturalization and property rights of aliens and relative to immigration, appended.)

DELAWARE.

Aliens eligible to citizenship may acquire, possess, transfer, or transmit real and personal property. Aliens ineligible to citizenship may acquire such property only as prescribed by treaty and not otherwise.—Chapter 91, Revised Code, approved April 7, 1921.

DISTRICT OF COLUMBIA.

Aliens who have declared their intention to become citizens may acquire and own real estate. Corporations organized outside of the United States and domestic corporations of which over 50 per cent of the stock is not owned by persons, corporations, or associations who are citizens of the United States are prohibited from acquiring and owning real estate. Treaty rights are protected against any prohibition in the law, and the law does not apply to the ownership of foreign legations or the ownership of residences by representatives of foreign Governments or attachés.—Chapter VII, District Code.

ILLINOIS.

Aliens may hold land for six years, at which time if he is not naturalized, the property is forfeited.—1 J. & A., section 284.

INDIANA.

Alien owning over 320 acres must become naturalized within five years or property is forfeited.—2 Burns, section 3943-44.

KANSAS.

Legislature has right to determine alien property rights. In absence of legislation, common-law rule holds (*Johnson v. Olson*, 92, K. 821).—Const. B. of R., section 17.

KENTUCKY.

Alien may hold for 25 years for business; other property acquired by operation of law may be held for eight years.—Stats., 1915, ch. 19, art. 3, secs. 334, 339.

MINNESOTA.

Alien ownership limited to 90,000 square feet, except in cases of citizens of countries whose rights are secured by treaty. Corporation with over 20 per cent of stock owned by aliens, prohibited from owning property.—Gen. Stats., 1913, sec. 6697.

MISSOURI.

Ownership permitted only in cases where right is guaranteed by treaty. Corporations with over 20 per cent of stock owned by aliens prohibited from owning property, except in restricted cases.—L. Rev. Stats. 1909, sec. 750-752.

NEBRASKA.

Aliens and corporations not incorporated under the laws of Nebraska prohibited from acquiring title to and from taking, holding, or leasing land or real estate for more than five years by descent, devise, purchase, or otherwise, except that widows and heirs of aliens who acquired lands prior to March 16, 1889, may hold such lands by devise or descent for a period of 10 years. Real estate necessary for railroads and real estate necessary for manufacturing establishments and real estate within the corporate limits of cities and towns exempt from the provisions of this act.

Aliens owning land at the time of the passage of this act protected as long as such real property shall remain the property of such alien.

Liens and judgments protected.

Aliens shall not constitute a majority of the board of directors or hold a majority of the stock of any corporation, foreign or domestic, organized to hold or that are holding real estate, nor shall such corporations elect aliens as executive officers or managers.—Act of 1921.

OKLAHOMA.

Absolute prohibition; lands acquired by operation of law must be disposed of in five years.—Const., Art. XXII, sec. 1.

PENNSYLVANIA.

Limited to 5,000 acres of property with net annual income not exceeding \$20,000.

TEXAS.

Aliens may enjoy such rights as to personal property as are accorded to citizens of the United States by the laws of the nation to which said alien belongs, or by treaty with said nation except as said may be affected by the laws of the State of Texas. No alien, or person who is not a citizen of the United States, shall acquire title to or own any lands in the State of Texas or acquire any leasehold or other interest in such lands. Exceptions: This shall not apply to land held by aliens at the date of the approval of this act, legally acquired, nor to lots or parcels of land owned by aliens in any incorporated town or city, nor to aliens who are bona fide inhabitants of the State of Texas, and who have legally declared their intention to become citizens of the United States, nor aliens who are natural born citizens of nations which have a common boundary with the United States, nor aliens who are citizens or subjects of a nation which permits, at the time of the passage of this act, American citizens to own land in fee in such country, and any resident alien so acquiring land, in accordance with the provisions of the law, shall have five years after he shall cease to be a bona fide inhabitant of this State in which to alienate such land. Aliens shall not be prevented from acquiring lands in the collection of debts, nor from acquiring liens upon real estate, nor from lending money and securing the same upon real estate. Aliens prohibited from owning land, who shall hereafter acquire real estate by devise, descent, or in the ordinary course of justice may hold same for five years. No corporation in which the majority of the capital stock is owned by aliens prohibited from owning land in the State shall acquire title to or own lands in the State of Texas.—Title 3 of the Revised Civil Statutes, as amended and approved April 1, 1921

WASHINGTON.

Aliens and corporations with majority of stock owned by aliens prohibited from owning property. Exception: Mineral lands.—Const. 11, sec. 33.

All aliens other than those who have in good faith declared their intention to become citizens of the United States are prohibited from owning land. Unless an alien be admitted to citizenship within seven years after his declaration of intention, it shall be presumed he declared his intention in bad faith. Treaty rights of aliens to the possession and use of land is limited to a period of not more than 10 years from date of possession. Prohibition of alien ownership of land does not include mineral lands or the necessary lands for mills and machinery for their development. Ownership of land by a female citizen who is afterwards expatriated by marriage to an alien is permitted. If an alien acquire land through inheritance or the ordinary course of justice he may not hold same for more than 12 years. An alien is permitted to possess and use mortgaged land for three years. If not foreclosed and sold in that time, the land shall be forfeited to the State.—Act approved March 8, 1921.

STATES WITH NO LEGISLATION ON ALIEN OWNERSHIP.

LOUISIANA.

A constitutional convention is now sitting to frame a new constitution for the State of Louisiana. The convention has approved Substitute Ordinance No. 452 (appended) prohibiting the acquisition of real property by aliens ineligible to citizenship.

UTAH.

No legislation. See resolution adopted by the legislature petitioning the Congress to stop oriental immigration.

ALASKA.

[Private lands, aliens may acquire title. Public lands. Compiled laws of the Territory of Alaska, 1913.]

Section 40: Permits for right of way for wagon roads and tramways may be granted only to citizens of the United States or companies or corporations organized under the laws of a State or Territory. (May 14, 1898, 30 U. S. Stat. L., 411.)

Section 101: Homestead laws of the United States extend to Alaska.

Section 101a: Person who is head of family or has arrived at age of 21 years and is a citizen of the United States, or has filed his declaration to become such, may make homestead entry. * * * Exceptions. * * * Must complete citizenship to obtain title. (Mar. 3, 1891, 26 U. S. Stat. L., 1095.)

Section 129: Laws of the United States relative to mining claims extend to Alaska. Citizens and those who have legally declared their intention to become such may explore and mine for precious metals. (June 6, 1900, 31 U. S. Stat. L., 329, 330.)

Section 254: Aliens prohibited from fishing in waters except with rod etc. * * *
Sale of fish to aliens permitted. * * * Alien labor may be employed.

Section 257: Collectors of Customs may search and seize foreign vessels violating.

[United States public land statutes, 1916, p. 22.]

Sections 13 and 14 (approved May 14, 1898, 30 U. S. Stat., 415): Native-born citizens of the Dominion of Canada shall be accorded in the District of Alaska the same mining rights and privileges and certain bonding privileges identical with privileges accorded citizens of the United States by the Dominion of Canada in British Columbia and the Northwest Territory.

HAWAII.

[Private lands, aliens may acquire title. Public lands. Organic act, sec. 73.]

No alien, other than one who has declared his intention to become a citizen of the United States as provided by law, may acquire title to public lands or shall continue to hold such lands unless he shall become a citizen within five years. (See also revised laws of Hawaii, 1915, secs. 352 and 354.)

UNITED STATES PUBLIC LAND LAWS.

[United States public land statutes, 1916.]

Page 102: Female citizen who has intermarried with an alien may receive homestead patent. (38 Stat., 766.)

Page 178: Mineral lands are open to purchase by citizens of the United States and those who have declared their intention to become such. (Sec. 2319, U. S. Rev. Stat.) Proof of citizenship required. (Sec. 2321, U. S. Rev. Stat.)

[Revised Statutes, United States, 1878.]

Chapter 5, page 419, section 2289: Every person who is head of a family or who has arrived at the age of 21 years, and is a citizen of the United States or has filed his declaration of intention to become such, shall be entitled to enter upon homestead, but must complete citizenship to obtain title.

[Twenty-ninth Statutes United States, p. 618.]

Chapter 363: Defining and regulating the right of aliens to hold and own real estate in the Territories.

[Twenty-sixth United States Statutes, 1095.]

Section 8 (desert land act), March 3, 1891: No person shall be entitled to make entry of desert land except he be a resident citizen of the State or Territory in which the land sought to be entered is located.

DECISIONS, DEPARTMENT OF THE INTERIOR.

Where the right of purchase is not limited by statute to native or naturalized citizens, purchases at public sale may be made by persons who have only declared their intention.

LAWS OF THE SEVERAL STATES AFFECTING ALIEN OWNERSHIP OF LAND.

LAW OF ARIZONA, 1917.

[Chapter 43, Senate bill No. 147.]

AN ACT To amend Chapter III, title 46, paragraph 4716, of the Revised Statutes of Arizona, 1913, civil code, relating to the rights, powers, and disabilities of aliens and of certain companies, associations, and corporations with respect to property in this State, and repealing all acts or parts of acts inconsistent or in conflict herewith.

Be it enacted by the Legislature of the State of Arizona, That Chapter III, title 46, paragraph 4716, of the Revised Statutes of Arizona, 1913, civil code, be amended to read as follows:

SECTION 1. No person other than a citizen of the United States or who has declared his intention to become such, or who is eligible to citizenship under the existing laws of the United States, and no corporation, more than 30 per cent of whose stock is owned by persons other than citizens of the United States, or who have declared their intention to become such, or who are eligible to citizenship under existing laws of the

United States, shall hereafter acquire any land, or title thereto, or interest therein, other than mineral lands, or such as may be necessary for the actual working of mines and the reduction of the product thereof: *Provided*, That no alien shall acquire title to any land or real property within this State, except as hereinafter provided: *And provided further*, That this chapter shall not prevent an alien from leasing any land or real property within this State for a period of not exceeding five years: *And provided further*, That this chapter shall not prevent the holder (whether aliens or nonresidents) of liens upon real estate, or any interest therein heretofore or hereafter acquired, from holding or taking a valid title to the real estate in the enforcement of such lien, nor shall it prevent any such alien from enforcing any lien or judgment for any debt or liability now existing, or which may hereafter be created, nor from becoming a purchaser at any sale made for the purpose of collecting or enforcing the collection of such debt or judgment, nor preventing widows or heirs who are aliens, or who have not declared their intention to become citizens of the United States, from holding lands by inheritance; but all lands acquired as aforesaid shall be sold within five years after the title thereto shall be perfected in such alien, and in default of such sale within such time, the title of such real estate shall revert and escheat to the State of Arizona; and any person who has under his declaration to become a citizen, acquired the title to, or the right to possession of lands in this State, and who fails to complete his citizenship, shall be subject to all the provisions of this chapter relating to aliens.

The provisions of this chapter shall not be construed in any way to prevent or interfere with the ownership of mining lands, or lands necessary for the working of mines and the reduction of the products thereof; nor shall the provisions of this chapter be so construed as to conflict in any manner with any rights existing under and by virtue of any treaty of the United States with any other country.

SEC. 2. All acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Approved March 12, 1917.

ALIEN LAND LAW OF ARIZONA.

AN ACT Relating to the rights, powers, and disabilities of aliens and of certain companies, associations, and corporations with respect to property in this State, providing for escheats on certain cases, prescribing the procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, prescribing penalties for violation of the provisions hereof and repealing all acts or parts of acts inconsistent or in conflict herewith.

Be it enacted by the Legislature of the State of Arizona:

SECTION 1. All aliens eligible to citizenship under the laws of the United States may acquire, possess, enjoy, transmit, and inherit real property, or any interest therein, in this State, in the same manner and to the same extent as citizens of the United States, except as otherwise provided by the laws of this State.

SEC. 2. All aliens other than those mentioned in section 1 of this act may acquire, possess, enjoy, and transfer real property, or any interest therein in this State, in the manner and to the extent and for the purpose prescribed by any treaty now existing between the Government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

SEC. 3. Any company, association, or corporation organized under the laws of this or any other State or nation, of which a majority of the members are aliens other than those specified in section 1 of this act, or in which a majority of the issued capital stock is owned by such aliens, may acquire, possess, enjoy, and convey real property, or any interest therein, in this State, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the Government of the United States and the nation or country of which such members or stockholders are citizens or subjects, and not otherwise. Hereafter all aliens other than those specified in section 1 hereof may become members of or acquire shares of stock in any company, association, or corporation that is or may be authorized to acquire, possess, enjoy, or convey agricultural land, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the Government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

SEC. 4. Hereafter no alien mentioned in section 2 hereof and no company, association, or corporation mentioned in section 3 hereof, may be appointed guardian of that portion of the estate of a minor which consists of property which such alien or such company, association, or corporation is inhibited from acquiring, possessing, enjoying, or transferring by reason of the provisions of this act. Any competent person, corporation, or official may be appointed guardian of the estate of a minor citizen whose parents are ineligible to appointment under the provisions of this section.

On such notice to the guardian as the court may require the superior court may remove the guardian of such an estate whenever it appears to the satisfaction of the court:

(a) That the guardian has failed to file the report required by the provisions of section 5 hereof; or

(b) That the property of the ward has not been or is not being administered with due regard to the primary interest of the ward; or

(c) That facts exist which would make the guardian ineligible to appointment in the first instance; or

(d) That facts establishing any other legal ground for removal exist.

SEC. 5. (a) The term "trustee" as used in this section means any person, company, association, or corporation that as guardian, trustee, attorney in fact or agent, or in any other capacity has the title, custody, or control of property, or some interest therein, belonging to an alien mentioned in section 2 hereof, or to minor child of such alien, if the property is of such a character that such alien is inhibited from acquiring, possessing, enjoying, or transferring it.

(b) Annually on or before the 31st day of January every such trustee must file in the office of the secretary of state of Arizona and in the office of the county recorder of each county in which any of the property is situated, a verified written report showing:

(1) The property, real or personal held by him for or on behalf of such an alien or minor;

(2) A statement showing the date when each item of such property came into his possession or control;

(3) An itemized account of all expenditures, investments, rents, issues, and profits in respect to the administration and control of such property with particular reference to holdings of corporate stock and leases, cropping contracts and other agreements in respect to land and the handling or sale of products thereof.

(c) Any person, company, association, or corporation that violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine not exceeding \$1,000 or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(d) The provisions of this section are cumulative and are not intended to change the jurisdiction or the rules of practice of courts of justice.

SEC. 6. Whenever it appears to the court in any probate proceeding that by reason of the provisions of this act any heir or devisee can not take real property in this State or membership or shares of stock in a company, association, or corporation which, but for said provisions said heir or devisee would take as such, the court instead of ordering a distribution of such property to such heir or devisee shall order a sale of said property to be made in the manner provided by law for probate sales of property and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such property.

SEC. 7. Any real property hereafter acquired in fee in violation of the provisions of this act by any alien mentioned in section 2 of this act, or by any company, association, or corporation mentioned in section 3 of this act shall escheat to and become and remain the property of the State of Arizona. The attorney general or county attorney of the proper county shall institute proceeding to have the escheat of such real property adjudged and enforced in the manner provided by chapter 4, title 6 of the Civil Code, Revised Statutes of Arizona, 1913, known as escheats. Upon the entry of final judgment in such proceedings the title to such real property shall pass to the State of Arizona. The provisions of this section and of sections 2 and 3 of this act shall not apply to any real property hereafter acquired in the enforcement or in satisfaction of any lien now existing upon, or interest in such property, so long as such real property so acquired shall remain the property of the alien, company, association, or corporation acquiring the same in such manner. No alien, company, association, or corporation mentioned in section or section 3 hereof shall hold for a longer period than two years the possession of any agricultural land acquired in the enforcement of or in satisfaction or other lien hereafter made or acquired in good faith to secure a debt.

SEC. 8. Any leasehold or other interest in real property less than the fee, hereafter acquired in violation of the provisions of this act by any alien mentioned in section 2 of this act, or by any company, association, or corporation mentioned in section 3 of this act shall escheat to the State of Arizona. The attorney general or county attorney of the proper county shall institute proceedings to have such escheat adjudged and enforced as provided in section 7 of this act. In such proceedings the court shall determine and adjudge the value of such leasehold or other interest in such real property and enter judgment for the State for the amount thereof together with costs.

Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest in the manner provided by section 519, Revised Statutes of Arizona, Civil Code, 1913. Out of the proceeds arising from such sale, the amount of the judgment rendered for the State shall be paid into the State treasury and the balance shall be deposited with and distributed by the court in accordance with the interest of the parties therein. Any share of stock or the interest of any member in a company, association, or corporation hereafter acquired in violation of the provisions of section 3 of this act shall escheat to the State of Arizona. Such escheat shall be adjudged and enforced in the same manner as provided in this section for the escheat of a leasehold or other interest in real property less than the fee.

SEC. 9. Every transfer of real property, or of an interest therein, though colorable in form, shall be void as to the State and the interest thereby conveyed or sought to be conveyed shall escheat to the State if the property interest involved is of such a character that an alien mentioned in section 2 hereof is inhibited from acquiring, possessing, enjoying, or transferring it, and if the conveyance is made with intent to prevent, evade, or avoid escheat as provided for herein.

A prima facie presumption that the conveyance is made with such intent shall arise upon proof of any of the following group of facts:

(a) The taking of the property in the name of a person other than the persons mentioned in section 2 hereof if the consideration is paid or agreed or understood to be paid by an alien mentioned in section 2 hereof;

(b) The taking of the property in the name of a company, association, or corporation, if the membership or shares of stock therein held by aliens mentioned in section 2 hereof, together with the memberships or shares of stock held by others but paid for or agreed or understood to be paid for by such aliens would amount to a majority of the membership or the issued capital stock of such company, association, or corporation;

(c) The execution of a mortgage in favor of an alien mentioned in section 2 hereof if sued mortgagee is given possession, control, or management of the property. The enumeration in this section of certain presumptions shall not be construed as to preclude other presumptions or inferences that reasonably may be made as to the existence of intent to prevent, evade, or avoid escheat as provided for herein.

SEC. 10. If two or more persons conspire to effect a transfer of real property, or of an interest therein, in violation of the provisions hereof, they are punishable by imprisonment in the county jail or State penitentiary not exceeding two years, or by a fine not exceeding \$5,000, or both.

SEC. 11. All acts and parts of acts inconsistent or in conflict with the provisions hereof are hereby repealed; provided that,

(a) This act shall not affect pending actions or proceedings, but the same may be prosecuted and defended with the same effect as if the act had not been adopted;

(b) No cause of action arising under any law of this State shall be affected by reason of the adoption of this act whether an action or proceeding has been instituted thereon at the time of the taking effect of this act or not, and actions may be brought upon such causes in the same manner, under the same terms and conditions, and with the same effect as if this act had not been adopted;

(c) This act in so far as it does not add to, take from, or alter an existing law, shall be construed as a continuation thereof.

Whereas this act requires early operation to preserve the public peace, health, and safety, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval by the governor, and is hereby exempt from the operation of the referendum provisions of the State constitution.

Approved by the governor February 26, 1921.

CALIFORNIA ALIEN LAND LAW.¹

AN ACT Relating to the rights, powers and disabilities of aliens and of certain companies, associations, and corporations with respect to property in this State, providing for escheats in certain cases, prescribing the procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, prescribing penalties for violation of the provisions hereof, and repealing all acts or parts of acts inconsistent or in conflict herewith.

The people of the State of California do enact as follows:

SECTION 1. All aliens eligible to citizenship under the laws of the United States may acquire, possess, enjoy, transmit and inherit real property, or any interest therein, in this state, in the same manner and to the same extent as citizens of the United States, except as otherwise provided by the laws of this state.

¹ Adopted by referendum vote by the electors November 2, 1920.

SEC. 2. All aliens other than those mentioned in section 1 of this act may acquire, possess, enjoy and transfer real property, or any interest therein, in this State, in the manner and to the extent and for the purpose prescribed by any treaty now existing between the Government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

SEC. 3. Any company, association, or corporation organized under the laws of this or any other State or nation, of which a majority of the members are aliens other than those specified in section 1 of this act, or in which a majority of the issued capital stock is owned by such aliens, may acquire, possess, enjoy and convey real property, or any interest therein, in this State, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such members or stockholders are citizens or subjects, and not otherwise. Hereafter all aliens other than those specified in section 1 hereof may become members of or acquire shares of stock in any company association or corporation that is or may be authorized to acquire, possess, enjoy or convey agricultural land, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the Government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

SEC. 4. Hereafter no alien mentioned in section 2 hereof and no company, association or corporation mentioned in section 3 hereof, may be appointed guardian of that portion of the estate of a minor which consists of property which such alien or such company, association or corporation is inhibited from acquiring, possessing, enjoying or transferring by reason of the provisions of the act. This public administrator of the proper county, or any other competent person or corporation, may be appointed guardian of the estate of a minor citizen whose parents are ineligible to appointment under the provisions of this section.

On such notice to the guardian as the court may require, the superior court may remove the guardian of such an estate whenever it appears to the satisfaction of the court:

(a) That the guardian has failed to file the report required by the provisions of section five hereof; or

(b) That the property of the ward has not been or is not being administered with due regard to the primary interest of the ward; or

(c) That facts exist which would make the guardian ineligible to appointment in the first instance; or

(d) That facts establishing any other legal ground for removal exist.

SEC. 5. (a) The term "trustee" as used in this section means any person, company, association or corporation that as guardian, trustee, attorney in fact or agent, or in any other capacity has the title, custody, or control of property, or some interest therein, belonging to an alien mentioned in section 2 hereof, or to the minor child of such an alien; if the property is of such a character that such alien is inhibited from acquiring, possessing, enjoying or transferring it.

(b) Annually on or before the 31st day of January every such trustee must file in the office of the secretary of state of California and in the office of the county clerk of each county in which any of the property is situated, a verified written report showing:

(1) The property, real or personal, held by him for or on behalf of such an alien or minor;

(2) A statement showing the date when each item of such property came into his possession or control;

(3) An itemized account of all expenditures, investments, rents, issues and profits in respect to the administration and control of such property with particular reference to holdings of corporate stock and leases, cropping contracts and other agreements in respect to land and the handling or sale of products thereof.

(c) Any person, company, association or corporation that violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(d) The provisions of this section are cumulative and are not intended to change the jurisdiction or the rules of practice of courts of justice.

SEC. 6. Whenever it appears to the court in any probate proceeding that by reason of the provisions of this act any heir or devisee can not take real property in this state or membership or shares of stock in a company, association or corporation which, but for said provisions, said heir or devisee would take as such, the court, instead of ordering a distribution of such property to such heir or devisee, shall order a sale of said property to be made in the manner provided by law for probate sales of property and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such property.

SEC. 7. Any real property hereafter acquired in fee in violation of the provisions of this act by any alien mentioned in section 2 of this act, or by any company, association, or corporation mentioned in section 3 of this act, shall escheat to, and become and remain the property of the State of California. The attorney general or district attorney of the proper county shall institute proceedings to have the escheat of such real property adjudged and enforced in the manner provided by section 474 of the Political Code and title 8, part 3, of the Code of Civil Procedure. Upon the entry of final judgment in such proceedings, the title to such real property shall pass to the State of California. The provisions of this section and of sections 2 and 3 of this act shall not apply to any real property hereafter acquired in the enforcement or in satisfaction of any lien now existing upon, or interest in such property, so long as such real property so acquired shall remain the property of the alien, company, association, or corporation acquiring the same in such manner. No alien, company, association, or corporation mentioned in section 2 or section 3 hereof shall hold for a longer period than two years the possession of any agricultural land acquired in the enforcement of or in satisfaction of a mortgage or other lien hereafter made or acquired in good faith to secure a debt.

SEC. 8. Any leasehold or other interest in real property less than the fee, hereafter acquired in violation of the provisions of this act by any alien mentioned in section 2 of this act, or by any company, association, or corporation mentioned in section 3 of this act, shall escheat to the State of California. The attorney general or district attorney of the proper county shall institute proceedings to have such escheat adjudged and enforced as provided in section 7 of this act. In such proceedings the court shall determine and adjudge the value of such leasehold or other interest in such real property, and enter judgment for the State for the amount thereof together with costs. Thereupon the court shall order a sale of the real property covered by such leasehold, or other interest, in the manner provided by section 1271 of the Code of Civil Procedure. Out of the proceeds arising from such sale, the amount of the judgment rendered for the State shall be paid into the State treasury and the balance shall be deposited with and distributed by the court in accordance with the interest of the parties therein. Any share of stock or the interest of any member in a company, association, or corporation hereafter acquired in violation of the provisions of section 3 of this act shall escheat to the State of California. Such escheat shall be adjudged and enforced in the same manner as provided in this section for the escheat of a leasehold or other interest in real property less than the fee.

SEC. 9. Every transfer of real property, or of an interest therein, though colorable in form, shall be void as to the State and the interest thereby conveyed or sought to be conveyed shall escheat to the State if the property interest involved is of such a character that an alien mentioned in section 2 hereof is inhibited from acquiring, possessing, enjoying, or transferring it, and if the conveyance is made with intent to prevent, evade, or avoid escheat as provided for herein.

A prima facie presumption that the conveyance is made with such intent shall arise upon proof of any of the following groups of facts:

(a) The taking of the property in the name of a person other than the persons mentioned in section 2 hereof if the consideration is paid or agreed or understood to be paid by an alien mentioned in section 2 hereof.

(b) The taking of the property in the name of a company, association, or corporation, if the memberships or shares of stock therein held by aliens mentioned in section 2 hereof, together with the memberships or shares of stock held by others but paid for or agreed or understood to be paid for by such aliens, would amount to a majority of the membership or the issued capital stock of such company, association, or corporation.

(c) The execution of a mortgage in favor of an alien mentioned in section 2 hereof if said mortgage is given possession, control, or management of the property.

The enumeration in this section of certain presumptions shall not be so construed as to preclude other presumptions or inferences that reasonably may be made as to the existence of intent to prevent, evade, or avoid escheat as provided for herein.

SEC. 10. If two or more persons conspire to effect a transfer of real property, or of an interest therein, in violation of the provisions hereof, they are punishable by imprisonment in the county jail or State penitentiary not exceeding two years, or by a fine not exceeding \$5,000, or both.

SEC. 11. Nothing in this act shall be construed as a limitation upon the power of the State to enact laws with respect to the acquisition, holding, or disposal by aliens of real property in this State.

SEC. 12. All acts and parts of acts inconsistent or in conflict with the provisions hereof are hereby repealed; provided, that—

(a) This act shall not affect pending actions or proceedings, but the same may be prosecuted and defended with the same effect as if this act had not been adopted.

(b) No cause of action arising under any law of this State shall be affected by reason of the adoption of this act whether an action or proceeding has been instituted thereon at the time of the taking effect of this act or not and actions may be brought upon such causes in the same manner, under the same terms and conditions, and with the same effect as if this act had not been adopted.

(c) This act in so far as it does not add to, take from, or alter an existing law, shall be construed as a continuation thereof.

SEC. 13. The legislature may amend this act in furtherance of its purpose and to facilitate its operation.

SEC. 14. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The people hereby declare that they would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

AGAINST JAPANESE LAND CONTROL.

Following is the text of the arguments in favor of the initiative alien land law measure, as published by the State for information of voters, under the law:

ARGUMENT IN FAVOR OF PROPOSED ALIEN LAND LAW.

Opponents of this initiative measure must assume that California is bound for some reason to give to Japanese in the State—to our ultimate undoing—privileges not contemplated by the treaty with Japan, and such as have always been denied to Americans in Japan.

Through the measure California seeks, as is her inherent right, to preserve her land for Americans, precisely as Japan preserves her lands for the Japanese. Its primary purpose is to prohibit orientals who can not become American citizens from controlling our rich agricultural lands.

By what right does Japan object to California extending to her own citizens and lands the same protection given by Japan to the Japanese and their lands?

Our present treaty of commerce and navigation with Japan deliberately omits, from the privileges granted Japanese in this country, either ownership or lease of agricultural lands. Japan has always prohibited ownership, or lease, or use of agricultural lands in Japan by Americans or other foreigners.

Orientals, and more particularly Japanese, having commenced to secure control of agricultural lands in California, there was enacted in 1913 the alien land law, which prohibited ownership—or lease beyond three years—of agricultural lands by aliens ineligible to citizenship.

In defiance of that law, through various subterfuges, including use of dummy corporations and minor native-born children, orientals, largely Japanese, are fast securing control of the richest irrigated lands in the State, through lease or ownership, the proportion already controlled in some counties being from 50 per cent to 75 per cent.

The initiative measure simply closes the loopholes in the 1913 law which permit violation and evasion thereof. In addition, it forbids even short leases.

Long lease of these lands by Japanese is as injurious in effect as ownership; and the short lease becomes long lease through repeated renewal and because once the land is occupied by Japanese the whites move away, and cease to be prospective lessees.

Control of these rich lands means in time control of the products, and control of the markets. Control of the products of the soil by a unified interest such as the Japanese will lead to economic control of the country. That will be followed in time by political control through force of numbers induced by the heavy birth rate. That condition is now at hand in Hawaii.

Rather than invite such disaster, better let some land lie idle, and a few large landholders make less profit, and even see production decrease somewhat, as opponents claim will result if this measure carries. However, it is not proven that curtailment of production will result. At present the small farmer who needs labor can get none from the Japanese, because they demand leases and cooperative management.

Under the initiative measure, treaty rights are fully safeguarded and citizenship of native born is not affected. All Japanese legitimately here may remain indefinitely

in any occupations selected by them, and will be protected in all property rights previously acquired. As agricultural laborers in California, they could earn much more than in any occupation in their own land. The birth rate will insure increase, rather than decrease, of the Japanese population in this State.

The measure provides that any alien ineligible to citizenship may acquire, use, transmit, and inherit interest in real property to the extent, and for the purposes prescribed by treaty with his respective nation, and not otherwise.

Various safeguards, suggested by experience, are provided, and certain penalties (including forfeiture of the property) for deliberate violation or evasion. The equities of innocent holders are fully protected.

The measure was carefully prepared by the State legislative counsel bureau, after the proposed provisions had been criticized by various leading legal and civic organizations of the State.

California should vote overwhelmingly for the measure, for the additional reason that her polled verdict as to the gravity of the problem will influence the Nation in endorsing necessary Federal legislation.

V. S. McCLATCHY.

REVISED CODE OF DELAWARE.

[Senate bill No. 54.]

AN ACT To amend chapter 91 of the Revised Code of the State of Delaware relating to aliens.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

SECTION 1. That chapter 91 of the Revised Code of the State of Delaware be, and the same is hereby, amended by repealing 3194, section 1 thereof, and by inserting in lieu thereof the following new section, to be styled 3194, section 1:

"3194. SECTION 1. On and after the approval of this act, only such aliens as are eligible to citizenship under the laws of the United States may acquire, possess, inherit, transfer or transmit, in any manner whatever, real and personal property, or any interest therein, in the State of Delaware, and all aliens eligible to citizenship under the laws of the United States as aforesaid, may acquire, hold, possess, inherit, transfer or transmit, real and personal property, or any interest therein, in the State of Delaware in the same manner and to the same extent as citizens of the United States, except as otherwise provided by the laws of this State."

SEC. 2. That chapter 91 of the Revised Code of the State of Delaware be, and the same is hereby, further amended by repealing 3195, section 2 thereof, and by inserting in lieu thereof the following new section, to be styled 3195, section 2:

"3195. SEC. 2. All aliens other than those mentioned in section 1 of this act, may acquire, possess, inherit, transfer or transmit real and personal property, or any interest therein, in the State of Delaware, in the manner and to the extent, and for the purposes prescribed by any treaty now existing between the Government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise."

SEC. 3. That chapter 91 of the Revised Code of the State of Delaware be, and the same is hereby, further amended by adding the following new section, to be styled 3195a, section 2a.:

"3195a. SEC. 2a. Any real or personal property in the State of Delaware hereafter acquired in violation of the provisions of this act, by any alien mentioned in section 2 of this act, shall escheat to and become and remain the property of the State of Delaware, in the same manner, and subject to the same conditions as now provided by law in reference to escheats."

SEC. 4. That nothing in this act shall be construed as a limitation upon the power of the State of Delaware to enact laws with respect to the acquisition, holding or disposal by aliens of real or personal property in the State of Delaware.

SEC. 5. That all acts and parts of acts, inconsistent, or in conflict with, the provisions of this act, be and the same are hereby repealed to the extent of such inconsistency or conflict.

WALLACE S. HANDY,
President Pro Tempore of the Senate.
WALTER J. PASKEY,
Speaker of the House.

Approved April 7, 1921,

WM. D. DENNEY,
Governor.

DISTRICT OF COLUMBIA CODE.

[Chapter VII—Aliens.]

SEC. 396. *Real estate*.—It shall be unlawful for any person not a citizen of the United States or who has not lawfully declared his intention to become such citizen, or for any corporation not created by or under the laws of the United States or of some State or Territory of the United States, to hereafter acquire and own real estate, or any interest therein, in the District of Columbia, except such as may be acquired by inheritance: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold and dispose of lands in the United States is secured by existing treaties to the citizens or subject of foreign countries, which rights, so far as they exist by force of any such treaties, shall continue to exist so long as such treaties are in force, and no longer, and shall not apply to the ownership of foreign legations or the ownership of residences by representatives of foreign Governments or attachés thereof.

SEC. 397. *Corporations*.—No corporation or association of which over 50 per cent of the stock is or may be owned by any person or persons, corporation or corporations, association or associations not citizens of the United States shall hereafter acquire or own any real estate hereafter acquired in the District of Columbia.

SEC. 398. *Forfeiture*.—All property acquired or held or owned in violation of the provisions of this chapter shall be forfeited to the United States, and it shall be the duty of the United States attorney for the District to enforce every such forfeiture by bill in equity or other proper process. And in every such suit or proceeding that may be commenced to enforce the provisions of this chapter it shall be the duty of the court to determine the very right of the matter, without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the other parties concerned.

[Chapter V.—Administration—Subchapter 1: Executors, administrators, and collectors.]

SEC. 261. *Competency of executors, and so forth*.—No letters testamentary or of administration shall be granted to a person convicted of an infamous offense, or to an idiot or lunatic, or person non compos mentis, or one under 18 years of age, or to any alien; and all questions as to the disqualification on any of said grounds of any person claiming to be entitled to letters testamentary or of administration shall be determined by the probate court, after such notice to the said persons as the court may direct.

[Chapter XXI.—Descents.]

SEC. 960. *Alien ancestors*.—In making title by descent it shall be no bar to a party claiming as heir that any ancestor, whether living or dead, through whom he derives his descent from the intestate is or has been an alien.

ILLINOIS STATUTES ANNOTATED.

[Chapter 6.—Aliens.]

AN ACT concerning aliens, and to regulate their right to hold real and personal estate, and to ratify and confirm titles derived through and under aliens, and to protect the titles of citizens from forfeiture, and to limit the time for recovery of land derived by citizens through or under aliens, approved May 14, 1897. In force July 1, 1897. L. 1897, p. 5.

Paragraph 283. Aliens may, subject to provisions of act, acquire¹ and hold title to land and alienate same—Title to descend—Alien heir to inherit: SECTION 1. All aliens may, subject to the further provisions of this act, acquire and hold title in fee simple, or otherwise, to lands, tenements and hereditaments, situate in this State, by deed, devise or descent, and may alienate, sell, assign, incur, devise, and convey lands, tenements and hereditaments, whether the same have been heretofore or be hereafter acquired, and the title to any lands of which an alien may die seized or possessed intestate, shall descend to the heirs at law, and no person shall be deprived of his right to take title to real estate as heir at law by descent from any deceased person because he may be an alien or be compelled to trace his relationship to such deceased person through one or more aliens.

Rights of aliens to acquire land: See Illinois notes, Volume XI, page 89, section 5.

See act relating to "Dower," chapter 41, section 2, providing for dower of surviving spouse of alien.

¹ Some official editions print word "acquire" in first line of section above, "require."

Common law gave aliens no inheritable blood, and they were incapable of taking by inheritance. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Under this section aliens may take title to real estate in trust, especially where the trustee is the sole beneficiary under the trust. *Kalies v. Ewert*, 248-612.

What law governs: See Illinois Notes, Volume XI, page 89, section 5; page 894, sections 42-50.

Descent and heirship of real estate are governed by the law of the country where located. *Wunderle v. Wunderle*, 144-40; 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Decisions under prior statutes prohibiting aliens from acquiring title: See Illinois Notes, Volume XI, page 89, section 4.

Validity of statutes: See Illinois Notes, Volume XI, page 89, section 4.

Privileges under act of 1851 continued to aliens who had acquired lands in Illinois under it, and conferred upon their heirs the right to take an estate, does not make L. 1887, p. 5, a special law. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Limitation of the general application of an act against nonresident aliens, arising from the exercise of the treaty-making power by the Federal Government, does not make it special within the meaning of the State constitution. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Effect of statutes: See Illinois Notes, Volume XI, page 89, section 5.

Treaty between United States and foreign nation, inconsistent with L. 1887, page 5, suspended it as to subjects of such nation. *Schultze v. Schultze*, 144-290, 19 L. R. A. 90; 36 Am. St. 432.

Rights of aliens: See Illinois Notes, Volume XI, page 89, sections 5-11.

R. S. 1845, ch. 4, provided that aliens "residing in this State" might take by deed or will, or sell lands; act February 17, 1851, amended, omitting "residing in this State;" act June 16, 1887, provided that nonresident alien should not be capable of acquiring title, except that the heirs of aliens who have heretofore acquired lands, and the heirs of aliens who may acquire lands under this act. This last clause referred to section 8, where nonresident alien sells and obtains title on judgment for purchase money. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Purpose of L. 1887, page 5, was to preclude alien ownership of land. *Greenwood v. Greenwood*, 178-387.

Under L. 1887, page 5, alien could neither inherit, demise, nor transmit to citizen. *De Graff v. Went*, 164-485; *Jelev. Lemberger*, 163-338.

Devise to alien of proceeds of sale of real estate, was legal. *Greenwood v. Greenwood*, 178-387.

L. 1887, page 5, with proviso added to section 3 by act of 1891, applied only to alien males who had declared their intention of becoming citizens, or to alien females who were actually and in good faith residents of United States. *De Graff v. Went*, 164-485.

Under L. 1887, page 5, citizens were not deprived of the right to transmit their lands by devise or descent merely because certain kindred who are nonresident aliens are incapable of inheriting. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Under L. 1887, page 5, a nonresident alien devisee could not take title to land in Illinois under the will of a citizen of the United States, e. g., a naturalized citizen. *Ryan v. Egan*, 156-224.

Lands of a deceased intestate in this State could not descend to his nonresident alien kindred under act of 1887, and would escheat to the State or county if he left no resident kindred capable of inheriting. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

A citizen could not inherit if he was obliged to trace his kinship through an alien. *Beavan v. Went*, 155-592, 31 L. R. A. 85.

Subjects and residents of the German Empire are not heirs of a deceased intestate who was a citizen of the United States. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Disability of nonresident alien under L. 1887, page 5, not removed by any existing treaty between the United States and Baden or the German Empire, or other treaties. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Under L. 1887, page 5, defeasible titles might be held by heirs of aliens who had theretofore acquired lands, and resident aliens declaring their intention of becoming

citizens, and creditor aliens seeking to enforce liens or judgments, and all others not embraced or prohibited. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524; 38 L. Ed. 1078.

Exceptions in L. 1887, page 5, section 1, should not be so construed as to embrace others than the class of persons therein specifically designated. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524, 38 L. Ed. 1078.

Words "shall not be capable" in L. 1887, page 5, section 1, could not be construed as permitting the nonresident alien to hold a defeasible title subject to forfeiture in favor of the State. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524, 38 L. Ed. 1078.

Words "and the alien heirs of citizens" would not be inserted by construction after the words "except that the heirs of aliens," in L. 1887, page 5, section 1, permitting heirs of aliens to hold land for three years. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524, 38 L. Ed. 1078.

Common-law rule was merely declared by act of 1887. *Wunderle v. Wunderle*, 144-40, 19 L. R. A. 84; writ dismissed, 154 United States (mem. dec.) 524, 38 L. Ed. 1078; *Beavan v. Went*, 155-592, 31 L. R. A. 85.

Titles vested prior to enactment of L. 1887, page 5, section 1, were not affected thereby. *Meadowcroft v. Winnebago County*, 181-504.

Disposal of land by aliens: See Illinois notes, Volume XI, page 89, section 4.

Heirs of American citizens, who are citizens of Bremen, had three years to dispose of real estate which they would inherit but for their alienage, under the treaty with Bremen. *Schultze v. Schultze*, 144-290, 19 L. R. A. 90, 36 Am. St. 432.

Nonresident aliens having such power of sale within three years might maintain a suit for partition. *Schultze v. Schultze*, 144-290, 19 L. R. A. 90, 36 Am. St. 432.

Treaty rights of aliens: See Illinois notes, Volume XI, page 89, section 4.

Treaty between United States and foreign country prevails where in conflict with provisions of "Alien act." *Adams v. Akerlund*, 168-632; *Scharpf v. Schmidt*, 172-255; *Hauenstein v. Lynham*, 100 United States 483, 25 L. Ed. 628; *Geofroy v. Riggs*, 133 United States 258, 33 L. Ed. 642.

Illegitimate aliens: See Illinois notes, Volume XI, page 89, section 5.

Estates of aliens who are illegitimates are governed by "Alien act." *Meadowcroft v. Winnebago County*, 181-504.

284. Alien adults to hold title for six years—On failure to convey or become citizen within limitation period, State's attorney to proceed to compel sale—Procedure—Costs—On default of State's attorney any citizen may proceed: SEC. 2. If any alien shall at any time of acquiring title to lands situate in this State be of the age of 21 years or upward, he may hold title to the same for 6 years from and after the time of acquiring such title; but if any alien shall at the time of acquiring title to lands situate in this State be under the age of 21 years, he may hold title to the same for 6 years from and after the time when he becomes 21 years of age, and if at the end of the time above limited such lands shall not have been conveyed to bona fide purchasers for value, or such alien shall not have become a citizen of the United States, it shall then be the duty of the State's attorney of the county in which said lands are situate to proceed by information, in the name of the people of the State of Illinois, in the circuit court of such county, to compel a sale of said lands, and such court shall have jurisdiction to hear and determine such information, and to order the sale of such lands by a master in chancery, special commissioner, or other officer, for that purpose appointed by said court, at such time and place and upon such terms as the court may direct, but such sale shall be made subject to all incumbrances by way of judgment or mortgage, or otherwise, existing, against such lands at the time of the commencement of such proceedings.

Notice to all parties interested shall be given as now authorized in cases in chancery.

It shall be a good defense to any such proceeding that prior to the time that the same was commenced such alien had become a citizen of the United States, or that the title to such lands had been conveyed in good faith by such alien, mediately or immediately, to a citizen of the United States, or if such alien has deceased prior to the time of the commencement of such proceeding, that his heirs or devisees, or any person claiming by, through, or under them, are or had become citizens, of the United States.

Said court shall tax as costs such fees for the State's attorney as shall be reasonable, not exceeding 20 per cent of the amount which shall be bid for such lands at any such sale thereof, and shall allow to such master in chancery, special commissioner, or other officer making such sale, the same fees as are allowed by law to masters in chancery for the sale of lands under decree of foreclosure of mortgages, and all fees and costs shall be paid out of the proceeds of sale of such real estate.

If any State's attorney shall neglect or refuse to proceed by information as herein-before provided within 30 days after it shall be brought to his notice that an alien is holding title to lands in this State contrary to the provisions of this act, then any citizen may proceed by information, in the name of the people of the State of Illinois, in the same manner as such State's attorney might have proceeded under the provisions of this section, and he and his attorney may be allowed such reasonable fees for their services, to be taxed as costs, as the court may direct, not exceeding in the aggregate 20 per cent of the amount which shall be bid for such lands at any such sale thereof. (Subject of escheat. "Escheat," ch. 49; "Descent," ch. 39, sec. 1, cl. 7, and sec. 2, cl. 6. Disposal of land by aliens. See Illinois notes, Vol. XI, p. 89, sec. 4. Statute allows six years to dispose of land. *Hill v. Gianelli*, 221-286, 112 Am. St. 182.)

285. No sale valid until confirmed—Proceeds of sales to become property of State—Duty of State treasurer: SEC. 3. No sale made pursuant to any decree entered in any such proceeding brought under the provisions of this act shall be valid until confirmed by the court ordering the same.

The money and securities for the unpaid balance, if any, of the purchase price bid for such lands at any such sale shall, after deducting all fees and costs, be paid and delivered to the clerk of said court, who shall, within 10 days after the receipt thereof, transmit the same to the State treasurer, who shall hold the same as the property of the State of Illinois.

It shall be the duty of the State treasurer to collect the money due or to be due upon such securities, and give due acquittances therefor: *Provided*, That all securities for unpaid balances of the purchase money for such lands shall be made payable to the people of the State of Illinois.

286. Possession of land sold to be delivered to purchaser: SEC. 4. Possession of such lands so sold shall be delivered by such alien to the purchaser at such sale within 10 days from and after the time when such purchaser shall exhibit to the person in possession thereof, if any, a deed executed by the officer making such sale, together with a written demand for such possession, signed by such purchaser or by his agent or attorney.

287. Existing titles confirmed—Exception: SEC. 5. The title to all lands, situate within this State, which are or may have been subject to a forfeiture or escheat, either to the State of Illinois or to the county in which such lands are situate, by reason of the provisions of an act entitled "An act in regard to aliens, and to restrict their right to acquire and hold real and personal estate, and to provide for the disposition of the lands now owned by nonresident aliens," approved June 16, 1887, in force July 1, 1887, is hereby ratified and confirmed in and released unto those persons who, but for their alienage or the alienage of the persons or persons by, through, or under whom they claim title, would have the title thereto: *Provided*, That any alien in or to whom the title to any such lands have been ratified, confirmed, or released by virtue of the provisions of this section shall hold the same subject to all the provisions of this act, and such title shall be deemed to have accrued to and vested in such alien at the date when this act becomes in force: *And provided further*, That this section shall not apply to any lands as to which proceedings have heretofore been commenced by or in behalf of the State of Illinois, or any county of said State, to enforce a forfeiture or escheat thereof.

288. Limitation: SEC. 6. No action shall be commenced to recover any lands, tenements, or hereditaments, situate within this State, by any person who, but for the provisions of an act entitled "An act in regard to aliens, and to restrict their right to acquire and hold real and personal estate, and to provide for the disposition of the lands now owned by nonresident aliens," approved June 16, 1887, in force July 1, 1887, would have no title to such lands, tenements, and hereditaments of or from any citizen of the United States of America in whom, but for the provisions of said act, the title to such lands, tenements, or hereditaments would be vested, unless such action shall be commenced within two years from and after the time when this act shall become in force, or within two years from and after the time when such right of action first accrues.

289. Alien may hold personal property like citizen: SEC. 7. All aliens may acquire and hold personal property in the same manner and to the same extent as natural born citizens of the United States, and the personal estate of an alien dying intestate shall be distributed in the same manner as the estates of natural born citizens, and all persons interested in such estate shall be entitled to proper distributive shares thereof under the laws of this State, whether they are aliens or not.

Actions by aliens: See Illinois notes, Volume XI, page 90, section 6.

Nonresident alien may maintain suit.

Kellyville Coal Co. v. Petraytis, 95 A. 635, aff'd 195-215.

290. Repeal. SEC. 8. "An act in regard to aliens and to restrict their right to acquire and hold real and personal estate and to provide for the disposition of the lands now owned by nonresident aliens," approved June 16, 1887, and in force July 1, 1887, and all other acts and parts of acts in conflict with this act are hereby repealed.

An act to prevent alien landlords from including the payment of taxes in the rent of farm lands as a part of the rental thereof.

Approved June 16, 1887. In force July 1, 1887. L. 1887, p. 4.

291. Leases shall not contain provisions requiring tenants to pay taxes. SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly,* That no contract, agreement, or lease, in writing or by parol, by which any lands or tenements therein are devised or leased by an alien or his agent for the purpose of farming, cultivation, or the raising of crops thereon, shall contain any provision requiring the tenant, or other person for him, to pay taxes on said lands or tenements, or any part thereof, and all such provisions, agreements, and leases so made are declared void as to the taxes aforesaid. If any alien landlord or his agent shall receive in advance, or at any other time, any sum of money or article of value from any tenant in lieu of such taxes, directly or indirectly, the same may be recovered back by such tenant before any court having jurisdiction of the amount thereof, and all provisions or agreements in writing, or otherwise, to pay such taxes shall be held in all courts of this State to be void.

INDIANA—BURNS'S ANNOTATED STATUTES, 1914.

[1861, p. 153. In force Mar. 11, 1861.]

3936 (3328). Who may convey: (1) No person except a citizen of the United States, or an alien who shall be at the time a bona fide resident of the United States, an Indian, a Negro, or a mulatto or other person of mixed blood, shall take, hold, convey, devise, or pass by descent, lands, except in such cases of descent or devise as are provided for by law: *And provided, further,* That the marriage of a woman with an alien, and her residence with her husband in a foreign State or country, shall not bar her right to hold, convey, devise, and pass by descent, lands which may have come to her by descent or purchase.

Commissioners to convey, sections 1050-1058.

Aliens conveying lands, sections 3939-3946, 4010.

Married women, deeds by, section 7852.

An Indian who is a bona fide resident of the United States, though not a citizen thereof, may convey or devise real estate. *Parent v. Walmsly* (20 Ind. 82); *Steeple v. Downing* (60 Ind. 478).

An alien who is a bona fide resident of the United States may hold and convey real estate. *Murray v. Kelly* (27 Ind. 42).

At the common law the title of an alien to real estate was liable to be divested by an inquest of office. *Halstead v. Board* (56 Ind. 363).

Expectant estates, effect of conveyance of. *McClure v. Raben* (125 Ind. 139; 25 N. E. Rep. 179; 133 Ind. 507; 33 N. E. Rep. 275); *Chambers v. Chambers* (139 Ind. 111; 38 N. E. Rep. 334); *Eissler v. Hoppel* (158 Ind. 82, 62 N. E. Rep. 692).

Additional notes.—The right of aliens to convey land or to acquire the same by descent is regulated by statute. *Donaldson v. State* (— Ind. —, 101 N. E. Rep. 485).

3937 (3329). Former sales legalized: (2) All bona fide sales, conveyances, purchases, and devises heretofore made by an Indian, Negro, or a mulatto, or other person of mixed blood, and all estates heretofore acquired by any Indian, Negro, or a mulatto or any person of mixed blood, by conveyance, devise, or descent, are hereby legalized, and such tenants are hereby declared to hold the same as fully and to the same extent as though there was no disability to the contrary: *Provided,* That nothing herein contained shall affect any suit or proceeding now pending in any of the courts of this State.

3939 (3331). Title of aliens: (3) No title of any resident inhabitant of this State, who was in actual possession of any lands on the 1st day of November, 1851, or at any time previous, nor of any person holding under such resident, shall be defeated or prejudiced on account of his own alienism or the alienism of any other person through whom his title may have been derived.

Aliens holding and conveying land, section 4010.

Widow of alien inheriting land, section 3051.

Escheat of estates, sections 3003-3009.

[Acts 1885, p. 79. In force Mar. 9, 1885.]

3940 (3332). Aliens—when may hold real estate: (1) That all aliens residing in the State of Indiana, who shall have declared their intention to become citizens of the United States, conformably to the laws thereof, may acquire and hold real estate in like manner as citizens of this State; and any alien, whether residing in the State of Indiana or elsewhere, shall have the right to make loans of money and to take and accept mortgages upon real estate within the State of Indiana to secure the payment of any such loans, or of any bona fide indebtedness owing from any person to such aliens, and shall have the right to take, hold, transmit, and convey any real estate acquired, held, or obtained by the process of laws in the collection of debts or by any procedure for the enforcement of any lien or claim thereon, whether created by mortgage or otherwise, as fully as a citizen of this State may take, hold, transmit, or convey such real estate. [As amended, acts 1899, p. 377.]

Aliens holding and conveying lands, section 4010.

Widow of alien inheriting land, section 3051.

Aliens may convey lands until an inquest of office is had. (*Halstead v. Board*, 56 Ind., 363.)

Aliens holding and conveying lands under act of 1861. (*State v. Witz*, 87 Ind., 190.)

Additional notes.—Aliens can hold and convey lands only upon such terms and conditions as may be prescribed by law. (*Lehman v. State*, 45 App., 330; 88 N. E. Rep., 365; *Donaldson v. State*, 167 Ind., 553; 78 N. E. Rep., 182.)

3941 (3333). Aliens, devise, descent, conveyance: (2). All other aliens may take and hold land by devise and descent only, and may convey the same at any time within five years thereafter, and no longer, and all lands so left and remaining unconveyed at the end of five years shall escheat to the State of Indiana: *Provided, however*, That whenever any alien shall acquire, or shall have acquired heretofore, any land by devise or descent, and the final settlement of the estate of such decedent shall be or shall have been delayed for more than five years, said alien shall have an additional period of two years from the final settlement of such estate within which to convey said land: *And provided further*, That in the event such alien during the pendency of such settlement of such estate shall have become a naturalized citizen of the United States and of the State in which he resides, then and in such event such naturalized alien, thus becoming a citizen, shall be and is relieved of all disabilities of aliens as to ownership of real estate; and he may continue to hold real estate, taken by devise or descent, and may further acquire and hold real estate in like manner and with like power as citizens of the United States. [As amended, acts 1903, p. 184.]

Aliens holding and encumbering lands, section 4010.

Escheat of estates, sections 3003–3009.

At the common law aliens had no inheritable blood, and could not take land by descent nor transmit it to others. (*Murray v. Kelly*, 27 Ind., 42.)

Additional notes.—This section is not in conflict with the treaty between the United States and Switzerland regulating the rights of the citizens of each country and land held by an alien citizen at his death may be escheated to the State if the provisions of this section are not complied with. (*Lehman v. State*, 45 App. 330; 88 N. E. Rep., 365.)

3942 (3333a). Pending suits not affected: (2) Nothing contained in this act shall affect in any manner pending litigation involving the escheat of lands to the State of Indiana.

[Acts 1905, p. 410. In force Mar. 6, 1905.]

3943 (3333b). Aliens holding real estate: (1) That natural persons who are aliens, whether they reside in the United States or any foreign country, subject to the provisions hereinafter contained, may acquire by purchase, devise, or descent, and may hold and enjoy real estate, and may convey, devise, transmit, mortgage, or otherwise encumber the same in like manner and with the same effect as citizens of this State or the United States. The title of any real estate heretofore inherited, mortgaged, conveyed, or devised shall not be questioned, nor in any manner affected, by reason of the alienage of any person, from or through whom, mediately or immediately, such title is claimed or derived.

Aliens holding or encumbering lands, section 4010.

3944 (3333c). Lands escheat to State: (2) If any alien shall hereafter in any manner acquire land in this State in excess of 320 acres, he shall, within 5 years from acquiring such excess or from arriving at the age of 21 years, if a minor, unless he shall have become a citizen of the United States, convey all lands acquired by him in this State, except that if he dies within said period without having conveyed, nothing

herein shall prevent his heirs or devisees from inheriting or taking by devise from or through him such un conveyed lands, subject to all the provisions of this act. If any alien shall acquire such excess above 320 acres and such excess shall remain un conveyed at the end of five years after the acquisition thereof, then such excess shall escheat to the State of Indiana, and it shall be the duty of the attorney general to file an information in the circuit or superior court of the county in which said land is situated alleging the ground upon which recovery is claimed, making all persons interested parties thereto, and the attorney general shall, at the time of filing such information, file in the office of the clerk of said court a notice containing the title of the court, the names of all the parties, if known, and if not known, then by the designation of "unknown heirs," as is provided in suits to quiet title, to such suit, a description of said real estate, and a statement of the nature of such action, and said notice shall be by the clerk recorded in his penders record as of the date and hour of filing, and said land and all of the land owned by said alien and described in said information and notice shall, upon hearing and judgment upon such information, escheat to the State: *Provided*, Any person, firm, or corporation who, prior to the filing of such information and notice, in good faith and for a valuable consideration, shall have, or except for the alienage of the person or persons from or through whom, mediately or immediately, claim is made, would have acquired, either by deed, mortgage, contract, legal proceeding, or otherwise, any right, title, interest, or lien to, in, or upon said lands, or any part thereof, shall not be prejudiced nor affected by the alienage of any such person or persons, and every such right, title, interests, or lien shall be in all respects as valid as if the alienage of such person or persons did not exist, and may be set up by the owner or owners thereof and shall be fully protected in any proceeding for the recovery or to enforce the escheat of said lands in favor of the State.

3945 (3333d). Repeal, saving clause: (3) All laws and parts of laws in conflict with the provisions of this act are hereby repealed: *Provided, however*, Nothing contained in this act shall affect in any manner the title to any real estate heretofore recovered or conveyed by or under the authority of the State as escheated lands or pending litigation involving the escheat of lands to the State or the title of the State to any lands to which it has heretofore claimed, asserted, or attempted to assert title by an action in any court of this State.

[Acts 1885, p. 79. In force Mar. 9, 1885.]

3946 (3334). Title in case of lien: (3) That nothing herein contained shall prevent the holder of any lien upon or interest in real estate theretofore acquired from taking a valid title to real estate in which he has such interest or upon which he has such liens; nor shall any of the provisions of this act be construed [construed] to prevent any alien, whether such alien reside in the State of Indiana or elsewhere, from taking, holding, transmitting, or conveying any real estate within said State which shall be acquired, held, or obtained by the process of law in the collection of debts or by any procedure for the enforcement of any lien or claim thereon, whether created by mortgage or otherwise, as fully as a citizen of this State may take, hold, transmit, or convey such real estate: *Provided*, That such aliens shall not hold real estate thus acquired for longer than five years. [As amended, acts 1899, p. 377.]

Aliens holding or encumbering lands, section 4010.

[1 R. S. 1852, p. 232. In force May 6, 1853.]

3947 (3335). How made: (4) Conveyances of lands or of any interest therein shall be by deed in writing, subscribed, sealed, and duly acknowledged by the grantor or by his attorney, except bona fide leases for a term not exceeding three years.

Signing by mark, section 3983.

Sale of land, statute of frauds, clause 4, section 7462.

Seal, executing deeds under, sections 4041, 4042, 7484.

Married women conveying land, sections 3952, 7852, 7853.

Insane husband or wife, conveyance, sections 4002-4009.

Conveyances executed before March 1, 1855, without seal of the party or of the officer taking the acknowledgment and the record thereof, were legalized by an act of 1855 (p. 88), which took effect August 17, 1855; 1 G. and H. (p. 262).

By act of December 23, 1858 (secs. 4041, 4042), the use of private seals or ink scrolls in the execution of conveyances were abolished as to the grantor and officer taking the acknowledgment unless he is required to have an official seal, and

CONSTITUTION OF THE STATE OF KANSAS.

SEC. 121. Property rights of citizens and aliens: Sec. 17. No distinction shall ever be made between citizens of the State of Kansas and the citizens of other States and Territories of the United States in reference to the purchase, enjoyment, or descent of property. The rights of aliens in reference to the purchase, enjoyment, or descent of property may be regulated by law.

This section was submitted by the legislature at the session of 1887 (L. 1887, senate joint resolution No. 6), and was adopted by the people at the election held in November, 1888. Original section 17 was as follows:

"Sec. 17. No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment, or descent of property."

Attachment against nonresidents without undertaking does not violate this section. *Head v. Daniels* (38 K. 10).

Husband convey lands when wife nonresident, wife retains no interest. *Bufington v. Grosvenor* (46 K. 733).

Attachment against nonresident executor on obligation of nonresident not violative. *Manley v. Mayer* (68 K. 380).

Common-law right of aliens abrogated by original section 17. *Madden v. The State* (68 K. 660).

Under original section statute descents and distributions applied to aliens. *Sparks v. Bodensick* (72 K. 7).

Section authorizes legislature to regulate, not to prohibit, aliens inheriting. *The State v. Ellis* (72 K. 290).

Legislature can now regulate right of aliens holding real estate. *Cramer v. McCann* (83 K. 723).

Amendment of this section without statute reinstated the common-law rule. *Johnson v. Olson* (92 K. 821).

[No. 18,913.—*Carrie Johnson*, appellee, *v. Erick Olson et al.*, appellees, and *Anna K. Jacobson et al.*, appellants.]

SYLLABUS BY THE COURT.

1. *Inheritance—Descents and distributions—Rights of aliens to inherit.*—In the absence of a governing treaty the repeal of the constitutional provision that no distinction shall be made between citizens and aliens in the inheritance, enjoyment, and descent of property and the adoption in its place of the provision that the rights of aliens in reference to the inheritance, enjoyment, and descent of property shall be regulated by law without enacting a statute regulating the inheritance of property by aliens revives and reinstates the common-law rule that an alien can not inherit from a deceased citizen.

2. *Same—Treaty between United States and Sweden.*—Article 6 of the treaty between the United States and Sweden, originally negotiated in 1783 and revived in article 17 of the treaty of 1827, relating to the disposition of "goods and effects," does not refer to or embrace real estate.

3. *Same—Alien can not inherit lands of a deceased citizen.*—The intestate, who was the owner of land in Kansas, died without wife or issue, his father and mother having previously died. Among his surviving brothers and sisters some were aliens and some citizens of the United States. One of his sisters who was an alien and alive when he died had two children who were citizens of the United States. Held, that the sister, being an alien, could not inherit a share of the estate, and that after her death her children, although citizens, were incapable of inheriting through her.

Appeal from Clay district court; Sam Kimble, judge. Opinion filed July 7, 1914. Affirmed.

George L. Davis, of Clay Center, for the appellants.

F. B. Dawes, R. C. Miller, F. L. Williams, and J. L. Hugin, all of Clay Center, for the appellees.

The opinion of the court was delivered by Johnston, C. J.: The purpose of this action is the partition of a tract of land in Clay County which had been owned by Olaf Olson, who died intestate, unmarried and without children on January 3, 1911. His parents, who died prior to the time of his death, were citizens of Sweden and never had been citizens of the United States. They had seven children besides Olaf, and their names were Lizzie Person, Anna Anderson, Brita Olson, and Carrie Johnson, sisters of Olaf, and Erick Olson, Zackarias Olson, and Lars Olson, his brothers. Only three of these were citizens of the United States, Carrie Johnson, Erick Olson, and Zackarias Olson, but Erick died without wife or children prior to the death of Olaf. The brother Lars Olson, deceased, was a citizen of Sweden and his only chil-

dren and heirs were citizens of Sweden and never were citizens of the United States. The sister Lizzie Person was a citizen and resident of Sweden at the death of Olaf and had never been a citizen of the United States. Before the death of Olaf his sister Brita Olson died a citizen of Sweden, and she never had been a citizen of the United States, but she left four children, two of whom were and always had been citizens of Sweden, and two of them, Betty Jerner and Olaf Olson, were residents and citizens of the United States when their uncle, Olaf, died. Another sister, Anna Anderson, was living at the time Olaf died and had always been a citizen of Sweden. She died in 1912, some time after this action was commenced, leaving four children, two of whom were citizens of Sweden and never citizens of the United States, and two of them, Anna K. Jacobson and Mary Burge, were citizens of the United States at the time that Olaf died. The trial court held that those who were aliens when Olaf died were not entitled to inherit any share in the land; that his sister Carrie Johnson, and his brother Zackarias Olson, citizens of the United States, were each entitled to an undivided one-third of the land; that Betty Jerner and Olaf Olson, citizens of the United States and children of an alien mother who was not living when Olaf died, were each entitled to one-sixth of the land; but that Anna K. Jacobson and Mary Burge, although citizens of the United States, did not inherit any share as their alien mother was living when Olaf died. Anna K. Jacobson and Mary Burge are the only relatives of the deceased who claimed a part of his estate other than those to whom it was awarded, and they are appealing from the decision holding that they were not entitled to inherit.

Whether they can inherit from their deceased uncle depends upon the interpretation of the treaty between the Governments of Sweden and the United States and of our statutes of descent and distribution. If the appellants can inherit it must be through their mother, who was a citizen of Sweden when Olaf Olson died and who had never been a citizen of the United States.

Originally aliens and citizens were upon an equality in Kansas so far as the inheritance of property was concerned. The constitution provided that—

"No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment, or descent of property." (Bill of Rights, sec. 17, Compiled Laws 1885, sec. 99.)

At the general election in 1888 this provision was stricken from the constitution and in its place a provision was inserted providing, among other things, that—

"The rights of aliens in reference to the purchase, enjoyment, or descent of property may be regulated by law." (Bill of Rights, sec. 17, Gen. Stat., 1909, sec. 99.)

Since that time there has been no legislation on the subject except chapter 3 of the laws of 1891 which provided for the early disposition of real estate then owned by nonresident aliens and therefore we have no constitutional or statutory provisions regulating the inheritance of property by aliens. In the absence of any regulation or provision on the subject the rule of the common law will control. In 8 Cyc., 377, it is said:

"When a statute abrogating a rule or principle of the common law is repealed, the common-law principle or rule is ipso facto revived, unless there is something to show a contrary intent on the part of the legislature."

The common law was in force when the original provision of the constitution permitting aliens to inherit was adopted, and when it was abrogated without the substitution of a regulation or statute on the subject of inheritance the common law was revived. It is a settled principle of the common law that there can be no inheritance by, through, or from an alien, and this principle has been applied in Kansas, where it was declared that—

"It is also the well-recognized rule of the common law that an alien can not inherit the lands of a deceased citizen." (The State v. Ellis, 72 Kans., 285, 288; 83 Pac., 1045.)

The Supreme Court of Iowa held that the common law controlled in the absence of legislation in regard to the rights of an alien to inherit, upon the theory that statutes as well as constitutional provisions are to be construed in reference to the principles of the common law, and that where they are silent upon the subject the principles of the common law will govern. It was said that—

"The statute regulating the descent of property in Iowa, at the adoption of the constitution, was that of February 13, 1843, and provides that the lands of any person dying intestate, shall descend in equal shares to his children. This evidently means such children as have inheritable blood; for it being an inflexible rule at common law that aliens, resident or nonresident, are not heirs, can not take by descent, nothing less than a plain and express provision in relation to them will change the rule." (Stemple v. Herminghouser, 3 G. Greene (Iowa), 408, 410; State v. Rollins, 8 N. H. 550; Nickels v. Kane's Adm'r., 82 Va. 309; Ins. Co. Valley of Virginia v. Barley's Adm'r, 16 Grattan (Virginia), 363; 6 A. & E. Encycl. of L. 931.)

This would be the controlling rule in the absence of a treaty regulation, but it is contended that under the terms of a treaty between the United States and Sweden the appellants take a share in the real estate owned by their uncle at the time of his death. A treaty between these Governments was made on April 3, 1783, and in article 6 there was a stipulation regulating the property rights of the citizens of the contracting parties. The article was revived and inserted without change in the treaty of 1827. (8 U. S. Stat. L., pp. 60, 346, 354.) In the article it was agreed that—

"The subjects of the contracting parties in the respective States may freely dispose of their goods and effects either by testament, donation, or otherwise, in favor of such persons as they think proper; and their heirs in whatever place they shall reside shall receive the succession even ab intestato, either in person or by their attorney, without having occasion to take out letters of naturalization. These inheritances, as well as the capitals and effects, which the subjects of the two parties, in changing their dwelling, shall be desirous of removing from the place of their abode, shall be exempted from all duty called 'droit de detraction,' on the part of the government of the two States, respectively." (8 U. S. Stat. L., p. 64.)

The original treaty is published in the English and French languages as if both were originals, and the dispute is as to the meaning of the clause, "goods and effects," which is given in the French copy as "fonds et biens." Do these words refer to personal property only, or do they embrace real estate? It is contended that the French word "biens" means real as well as personal property, and a note to section 13 of Story on Conflict of Laws, eighth edition, is quoted, as follows:

"The term 'biens,' in the sense of the civilians and continental jurists, comprehends not merely goods and chattels, as in the common law, but real estate."

Bouvier, however, defines the word to mean "property of every description, except estates of freehold and inheritance." The same definition is given by Black in his Dictionary of Law. It is sometimes said that Lord Coke has defined the word as meaning real property, but it appears that he referred to real chattels rather than to real estate itself. He said:

"Goods, biens, bona, includes all chattels, as well real as personal." (1 Coke on Littleton, 1st Am. ed., sec. 177, subdiv. 118b.)

Burrill's Law Dictionary gives the same definition. In 5 Cyc. 686, the word "biens" is defined as "property of every description, except estates of freehold and inheritance; goods." The court of appeals of New York gave the following definition:

"The corresponding Norman French term 'biens' is said to include property of every description, except estates of freehold." (McCaffrey v. Woodin, 65 N. Y., 459, 468; 22 Am. Rep., 644.)

Most of the authorities appear to hold that the word does not mean real estate, but assuming that there is a real difference of opinion in the authorities as to the meaning of the term, we should then examine the treaty as drawn in the English language. The intention of the makers of a treaty is to be construed in the same way and under the same general rules as are used in interpreting contracts between individuals. (38 Cyc. 969.) The treaty must not only be construed as a whole, but where it is executed in two languages both are originals and must be construed together. (United States v. Percheman, 32 U. S. 51; 8 L. Ed. 604.) The terms used were intended to be identical, and if the word "biens" is used in more than one sense and there is doubt as to the meaning in which it was used in the French copy, we can look at the corresponding words used in the English version, and we find these to be words about the meaning of which there can be little, if any, doubt. The corresponding expression of "fonds et biens" is "goods and effects," and that expression in its natural and ordinary sense means movable personal property and not real estate. Even if the treaty had been only in the French language and the makers of it had translated it into English, using the words "goods and effects," it must have been inferred, in view of the different meanings given to the French expression, that the makers of the treaty intended to use it in the sense imported by the phrase "goods and effects." That phrase is in frequent use and includes only personal property, unless the context in which it is employed shows clearly that it was intended to have a peculiar and more extended meaning. "Goods" is defined as "wares, commodities, and chattels," and "effects" has a more extended meaning, but when it is used in connection with "goods," as here, it clearly means personal property and not real estate. So it has been held under a statute providing for the attachment of "goods and effects" that the expression did not include an estate in lands. The Supreme Court of Pennsylvania in deciding the question said:

"Their meaning is free from all ambiguity or doubt, whether used in a popular, a lexicographical, or a legal sense. The word 'goods' is always used to designate wares, commodities, and personal chattels. The word 'effect' is the equivalent of the word 'movables.'" (Vandergrift & Forman's Appeal, 83 Pa. St., 126, 129.)

In Vermont the words "goods, effects, and credits" were used in a trustee statute, and the supreme court of that State held that real estate was not embraced within the term "effects," the court saying:

"That word, as ordinarily used, is understood to mean goods, movables, personal estate; and I am not aware that the word 'effects' has ever been defined by any legal writer as including real estate." (*Hunter v. Case et al.* & Tr. 20 Vt., 195, 197.)

An Alabama statute provided for a landlord's lien on "goods, furniture, and effects and in a controversy it was held that "effects," as there used in connection with "goods," meant property of the same kind as "goods" and "furniture," and did not mean real estate. (*McKleroy v. Cantey & Randolph*, 95 Ala. 295, 11 South., 258; *First Nat. Bank of Birmingham v. The Consol. Electric Light Co.*, 97 Ala. 465; 12 South., 71.)

A power of attorney was executed authorizing a party to sell "claims and effects," and it was held that the word "effects," coupled as it was with "claims," did not embrace real estate. (*De Cordova v. Knowles*, 37 Tex., 19.)

In *Keyes v. The Milwaukee and St. Paul Railway Co.* (25 Wis., 691), it was held, under a garnishment statute providing for the attachment of "property and effects" in the hands of another, that the word "effects" meant personal property capable of being seized and sold under execution. In *Planters' Bank v. Sharp et al.* (47 U. S., 301; 12 L. Ed., 447), the court, in defining the word "effects," remarked:

"So, in respect to effects, it has been held, when the word is used alone, or simpler, it means all kinds of personal estate. * * * But if there be some word used with it, restraining its meaning, then it is governed by that, or means something ejusdem generis" (p. 321).

In *Doe d. Haw v. Earles* (15 M. & W. (Eng.), 450), the court held that—

"The meaning of the word 'effects' is, in common parlance, confined to personal things; and it has been judicially decided to bear that meaning, unless the context shows that the testator used it in a more comprehensive sense. This was held by all the Court of King's Bench, in the cases of *Canfield v. Gilbert* (3 East, 510) and of *Doe v. Langlands* (14 East, 430)" (p. 456).

It is true that in interpreting wills the courts, to prevent intestacy, have sometimes expanded the meaning of the term "effects" so as to include real property, but as the word is ordinarily used in contracts and statutes the courts uniformly hold that the term is not sufficiently comprehensive to include real estate and when coupled with "goods" or other like terms, descriptive of personal property, it includes nothing except movable personal property. This is illustrated in a case note in 12 L. R. A., n. s., 661.

In *Meier v. Lee et al.* (106 Iowa, 303, 76 N. W., 712), the supreme court in interpreting the treaty under consideration gave a definition of the words "goods and effects" used in the treaty and held that it did not include real estate. In defining the words the court said:

"Goods: A valuable possession or piece of property; especially, and almost universally, in the plural, goods, wares, commodities, chattels, 'Effects: Goods, movables, personal estate.' * * * 'Goods and effects' have never been held to include real estate" (p. 308).

The Supreme Court of Illinois interpreted the same provision of the treaty between the United States and Sweden and made a contrary decision. (*Adams v. Akerlund*, 168 Ill., 632, 48 N. E., 454.) The court proceeded on the theory that the words "fonds et biens" had the same meaning as the expression "goods and effects," and while it was conceded that the word "effects" when used in connection with the word "goods" as a general thing, means personal and not real property, it, nevertheless, held that the context of the article in which the expression occurs indicated an intention to include real estate. It was said that the words "heirs," "succession," and "inheritances," as there used, "are very significant words in determining the meaning to be given to the word 'effects'" (p. 638). After defining these terms and showing that they apply to real property the court came to the conclusion that—

"The terms of the treaty were intended to include real estate as well as personalty, and that the word, 'effects,' was intended to have a broader meaning which includes both land and personalty" (p. 640).

In holding that the words "heirs," "succession," and "inheritances" gave the term "effects" an unusual meaning that court apparently overlooked the fact that those words are stereotyped ones which are commonly employed in articles or provisions of treaties which deal expressly and unquestionably with personal property alone. For instance, in the treaty of 1845 with Bavaria there is a provision stipulating as to the disposition of personal property by donation or otherwise which provides that citizens, "their heirs, legatees, and donees" shall "succeed to their said personal property," using terms which it is said are appropriate only to real property. Likewise, in the

treaty of 1829 with Austria-Hungary an article stipulating as to "personal goods" only the terms "succeed" and "representatives" are used, it being agreed that citizens of either nation "shall succeed to their personal goods, whether by testament or ab intestato." In the treaty with Russia of 1832 a provision of the treaty referring to personal property only used the expression of succeeding to personal property by testament or ab intestato. In a treaty of 1826 with Denmark it was provided that no unequal duties, charges, or taxes of any kind should be levied on "personal property, money, or effects" of the respective citizens or subjects or upon the removal of the same from either "upon the inheritance of such property, money, or effects, or otherwise than are or shall be payable in each State, upon the same, when removed by a citizen or subject of such State." There they used the word "inheritance" of personal property, a term which, it is said, gives character and a peculiar meaning to the word "effects" in the treaty in question. In the treaty of 1902 with Spain, in stipulating as to the power to dispose of personal property, the terms "heirs, legatees, and donees" are used, and it is provided that the citizens of either shall "succeed" to personal property. In a treaty with Great Britain made in 1899 a provision dealing with personal property applies all these terms which have been mentioned to personal property. The same is true in treaties with Bolivia, Brazil, Italy, Prussia, Switzerland, Wurttemberg, Brunswick and Luneberg, Colombia, Hesse, Mecklenberg-Schwerin, and Saxony. In fact, it appears that in most, if not all, the treaties negotiated between this Government and other nations these co-called real estate terms are used in provisions which expressly relate to personal property and personal property only, and this without regard to whether the treaty is with a civil-law nation or a common-law nation.

The treaties we have examined are found in *Compilation of Treaties in Force* (37 Senate documents, 58th Cong., 2d sess.), which has been prepared from time to time under the authority of Congress. The fact that these terms, which it is argued are only applicable to real estate, have been generally applied to personal property hardly justifies the court in the inference that in the use of the terms "goods and effects" the contracting parties intended to include real estate. The common use of the terms "heirs," "succession," and "inheritance" in treaty provisions which expressly and without doubt refer to personal property neutralizes the argument that the use of the same in connection with the words "goods and effects" changes an expression which means personal property into one which means real estate. The Supreme Court of Illinois was led to the view that an expression which by itself means personal property was intended to embrace real estate because of the use of terms which it appears are generally applied in provisions for the disposition of personal property only. The Supreme Court of Nebraska, in *Erickson v. Carlson et al.* (—Neb., 1914; 145 N. W., 352), with little discussion adopts the view taken by the Illinois court, and the Supreme Court of Washington, in an inheritance case, appears to take the same view. (In *re Stixrud's Estate*, 58 Wash., 339; 109 Pac., 343.)

We are inclined to agree with the Supreme Court of Iowa and hold that the words "goods and effects" as used in the article in question do not mean or embrace real estate. It appears to us that the context in which the words "heirs," "succession," and "inheritance" were used strongly tends to support that view and to show that the makers of the treaty did not intend to expand the meaning of "goods and effects" but were referring to movable property only. In the sentence following the one containing the words "heirs" and "succession," and which it is said expanded the meaning of "goods and effects" so as to make the words cover real property, it is provided:

"These inheritances, as well as the capitals and effects, which the subjects of the two parties, in changing their dwelling, shall be desirous of removing from the place of their abode, shall be exempted from all duty called 'droit de detraction,' on the part of the government of the two States, respectively." (8 U. S. Stat. L., p. 64.)

The expression "these inheritances" refers to "goods and effects," the property which the parties are to receive by inheritance or succession, and is such property as can be removed from the place of their abode when they change their dwelling. It thus appears that the "goods and effects" which they are to inherit and to receive by succession is movable property and not real estate.

As the treaty does not apply to real estate and as an alien is not allowed to inherit real property under the law as it exists in Kansas, it follows that Anna Anderson, who was still alive and an alien when her brother died, was not entitled to inherit a share of the land owned by her brother. Can her children, the appellants, inherit? The rule of descent is fixed by the statute. As Olaf Olson left no wife or issue his estate would descend to his father and mother if they were alive and capable of taking by descent. (Gen. Stat. 1909, sec. 2953.) The rule of the statute, in effect, is that if one of the parents be dead the estate goes to the surviving parent, and if both be dead it descends as if they had outlived the intestate and died in the ownership and posses-

sion of the property. (Gen. Stat. 1909, sec. 2954.) Neither of the parents of Olaf Olson was living at the time of his death and so the property descended the same as it would have done if his parents had outlived him and had been resident owners of the property at the time of their death.

Upon the death of the intestate the descent is cast at once and the title to the property would have passed to their sons and daughters, the brothers and sisters of the intestate, who were capable of inheriting, but, as we have seen, only those of them that have the inheritable blood or quality can inherit a share of the estate. At the moment of Olaf's death the title to the land owned by him passed at once to those capable of taking. Anna Anderson, who was living, would have taken a share but for alienage, and the appellants, her children, can only claim through her, and she being incapable of inheriting the inheritance was obstructed and the estate diverted to those who could take. This was, in fact, determined in *Smith v. Lynch* (61 Kans., 609; 60 Pac., 329). See also *Cramer v. McCann* (83 Kans., 719; 112 Pac., 832). In *Walker v. Potomac Ferry Company* (10 D. C., 440) it was said that—

"It is impossible for the children of a parent still alive to derive an inheritance, when the mother was herself incapable of acquiring that inheritance on account of alienage" (p. 442).

See also *Meier v. Lee et al.* (106 Iowa, 303; 76 N. W., 712); *The People v. Irvin* (21 Wendell, N. Y. Supr. Ct., 128); *Renner v. Muller* (44 N. Y. Supr. Ct. Rep., 535; Note, 31 L. R. A., 177).

The court, therefore, ruled correctly in holding that the appellants were not entitled to a share in the land of the intestate, and they are the only ones who complain of the ruling of the court.

The judgment will be affirmed.

KENTUCKY STATUTES (CARROLL, 1915).

[Chapter 19, act of Apr. 29, 1892.—Citizens' expatriation and aliens.]

ARTICLE I.—*Who deemed citizens.*—SEC. 332. Persons born or naturalized in United States: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, and who reside in the Commonwealth of Kentucky, shall be deemed citizens thereof.

SEC. 332. (1) Alien wife: Naturalization being a personal privilege, the alien wife does not become a citizen by the naturalization of her husband. (*White v. White*, 2 Met., 185.)

(2) Children under the age of 21, of persons naturalized, shall, if dwelling in this country, be considered as citizens of the United States. *Id.*

(3) Jurisdiction of courts to naturalize. Power to naturalize foreigners is conferred by Congress on certain designated State courts. The Lexington city court being a court of record, having a clerk and seal, and being vested with a limited common-law jurisdiction, has authority to admit aliens to citizenship. (*Morgan v. Dudley*, 18 B. M., 693.)

(4) The act of naturalization, required by act of Congress, is a judicial act, and Congress can not compel State courts to its exercise. But State courts may exercise jurisdiction if not prohibited by the exclusive jurisdiction of the Federal courts. *Id.*

ART. II.—*Expatriation, how effected.*—SEC. 333. Declaration relinquishing citizenship—residence abroad—war with foreign power: Whensoever any citizen of this State, by deed in writing, in the presence of, and subscribed by, two witnesses, and acknowledged or proved in the county court of the county in which he resides, or by open declaration made in such court and entered of record, shall declare that he relinquishes the character of a citizen of this State, and shall depart out of the same with the intention, in good faith, to remain absent therefrom, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, so far as regards this State, and shall not thenceforth be deemed a citizen thereof. When any citizen of this State shall reside elsewhere, and, in good faith, become a citizen of some other State of this Union, or the citizen or subject of a foreign State or sovereign, he shall not, while the citizen of another State, or the citizen or subject of a foreign State or sovereign, be deemed a citizen of this State. No act of any citizen under this section shall have any effect if done while the United States shall be at war with a foreign power.

SEC. 333. Citizen may expatriate himself, with the consent of his State, express or presumed. But no act of legislation can denaturalize a citizen without his concurrence. (*Burkett v. McCarty*, 10 Bush, 758.)

ART. III.—*Aliens, rights of.*—SEC. 334. Right to own, hold, and transfer property: An alien, not being an enemy, shall, after he has declared his intention to become a

citizen of the United States, according to the forms required by law, be enabled to recover, inherit, hold, and pass by descent, devise, or otherwise, any interest in real or personal property, in the same manner as if he were a citizen of this Commonwealth.

SEC. 334. (1) Alien can not inherit except under statute. By the common law aliens can not inherit. This law is in force here, except as modified by statute. (*White v. White*, 2 Met., 185; and see *Com. v. Newcomb*, 109 Ky., 18; 22 R., 516; 58 S. W., 445.)

(2) Under Revised Statutes, an alien friend who had resided in this State two years might receive, hold, and pass any right to land within the Commonwealth during the continuance of his residence after that period. (*Yeaker v. Yeaker*, 4 Met., 33.)

(3) Alien can take lands by purchase, though not by descent, at common law; or, in other words, he can take by act of the party, but not by act of law. (2 Met., 185.)

SEC. 335. Escheat to State—release from claim of Commonwealth: Any alien who shall have purchased, or contracted to purchase, any real estate, or who shall hold or have title thereto, and who shall become a citizen of the United States before the same is escheated by a proper procedure, which may be done at any time after the expiration of eight years from the time the title is acquired; and any purchaser, lessee, heir, or devisee, from him, if a citizen of the United States, who shall, before the property is escheated, become the owner thereof by purchase or inheritance, shall take and hold the same free and released from any right or claim of the Commonwealth by reason of such person's having been an alien.

SEC. 336. Rights of wives and children of citizens: Any woman whose husband is or shall be a citizen of the United States, and any person whose father or mother, at the time of his birth, was or shall be a citizen thereof, although born out of the United States, may take and hold real or personal estate by devise, purchase, descent, or distribution.

SEC. 337. Alien of friendly power—what property may be owned by: An alien, the subject or citizen of a friendly State, may take and hold any personal property, except chattels real; and any such alien, if he resides within this State, may take and hold any lands for the purpose of residence, or of occupation by him or his servants, or for the purpose of any business, trade, or manufacture, for a term not exceeding 21 years. An alien so taking and holding shall have like rights, remedies, and exemptions touching such property as if he were a citizen of the United States.

SEC. 338. Real estate may be held or alienated for eight years: If real estate within this Commonwealth shall pass to a nonresident alien by descent or devise, the same may, for the period of eight years next after the final settlement of the estate of the decedent from whom it was acquired, be held and alienated by such nonresident alien. If the heir or devisee aforesaid be a minor, the real estate aforesaid may be held for his benefit by a guardian or curator, and may be sold by proper proceeding had in conformity with the laws regulating sales of infant's real estate, if commenced within the period first above specified.

SEC. 339. Real estate acquired by alien—how passed by descent or devise: If a nonresident alien hath obtained possession of real estate acquired by descent or devise, and shall die before the expiration of the period limiting his right of enjoyment or sale, the right thus acquired shall pass by descent or devise; if to an alien, to be held for or disposed of within the period aforesaid; but if to a citizen of the United States, then such person shall take the title as fully as if the ancestor had himself been a citizen.

NOTE.—Alien's right to take by inheritance. Where an alien became a citizen of this State and died intestate and childless, his sister, an alien resident in France, may take by descent his real estate under limitations prescribed in the statute. ((Act. Mar. 21, 1861), *Eustache v. Rodaguest*, 11 Bush, 42.)

MINNESOTA GENERAL STATUTES, 1913.

6696. Aliens, etc., not to acquire land: Except as hereinafter provided, no person, unless he be a citizen of the United States or has declared his intention to become a citizen, and no corporation, unless created by or under the laws of the United States or of some state thereof, shall hereafter acquire lands, on any interest therein, exceeding 90,000 square feet, except such as may be acquired by devise or inheritance, and such as may be held as security for indebtedness. But the provisions of this section shall not apply to actual settlers upon farms of not more than one hundred and sixty acres, or to citizens or subjects of a foreign country whose rights to hold lands are secured by treaty. (3235.)

6697. Corporations having alien stockholders, etc.: Except as hereinafter provided no corporation or association, more than 20 per cent of whose stock is owned by persons not citizens of the United States, or by corporations or associations not created

under the laws of the United States or some state thereof, shall acquire lands in this state. (3236.)

6698. Other corporations: Except as hereinafter provided, no corporation, unless organized for the construction or operation of a railway, canal, or turnpike, shall acquire more than 5,000 acres of land; and no railway, canal, or turnpike corporation shall acquire lands, except so much as may be necessary for the proper operation of its railroad, canal, or turnpike, and lands granted to it by the United States or by the state. (3237.)

6699. Exceptions: The prohibitions of sections 6696-6698 shall not apply to lands acquired by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise, nor to any corporation actually engaged in manufacturing in the state of Minnesota, but such corporation may hold such lands as may be reasonably necessary in the carrying on of its business, nor to any person or corporation engaged in the business of selling lands to actual settlers; provided that all lands hereafter acquired by such person or corporation not engaged in the business of selling land to actual settlers, or not actually engaged in manufacturing in the State of Minnesota, be disposed of within 10 years after acquiring title thereto and that all lands now owned by such person or corporation not engaged in the business of selling land to actual settlers, or not actually engaged in manufacturing in the State of Minnesota, be disposed of within 10 years after the approval of this act, and that all lands so held by a corporation actually engaged in manufacturing in the State of Minnesota shall be disposed of within 10 years after it shall cease to use the same for the purposes of its business. (R. L. sec. 3238, amended 1907, ch. 439; 1911, ch. 130 sec. 1.)

6700. Forfeiture: All lands acquired or held in violation of sections 6696-6699 shall be forfeited to the State, and the attorney general shall enforce such forfeiture; but no such forfeiture shall be adjusted unless the action to enforce the same be brought within three years after such property has been so acquired or so held by such alien or corporation; and no title to land shall be invalid or liable to forfeiture by reason of the alienage of any former owner or person interested therein. (3239.)

MISSOURI REVISED STATUTES, 1909.

[Chapter 5.—Aliens.]

SEC. 748. *Aliens may hold and alienate real estate.*—Aliens shall be capable of acquiring, by devise or descent, real estate in this State, and of holding, devising, or alienating the same, and shall incur the like duties and liabilities in relation thereto as if they were citizens of the United States and residents of this State (R. S. 1899, sec. 4762).

Early laws discussed and ruling made that widows of alien residents who die here entitled to dower (*Stokes v. O'Fallon*, 2 Mo. 32). Under laws of 1855 non-resident alien could not take land by descent (*Wacker v. Same*, 26 Mo. 426). Since 1825, and perhaps before, an alien might hold land here by declaring his intention to become a citizen, etc. (*State v. Killian*, 51 Mo. 80).

The heirs of an alien can take by descent (*Burke v. Adams*, 80 Mo. 504).

Under provisions of Revised Statutes of 1835 and 1845, nonresident aliens could not inherit real estate, but could take as distributees of personality (*Harney v. Donohoe*, 97 Mo. 141). In 1852 an alien could not inherit land, but in 1872 all obstacles removed and he could inherit (*Utassy v. Giedinghagen*, 132 Mo. 53).

The act of 1895 takes away from alien the right to acquire, by purchase, and hold land conferred by act of 1872 (*Pembroke v. Huston*, 180 Mo. 627).

SEC. 749. *Female married to alien may convey real estate, when.*—Any female born in the United States, owning real estate or any interest therein in this State, who shall marry an alien and reside in a foreign country, may, at any time, notwithstanding such marriage or residence, convey such real estate, or any interest therein, by deed, or may at any time devise the same by last will: *Provided*, The same be done in either case in conformity with the general laws of this State concerning the conveyance of real estate by deed and the making of wills (R. S. 1899, sec. 4763).

SEC. 750. *Unlawful for persons or corporations to hold or own real estate, when.*—It shall be unlawful for any person or persons not citizens of the United States, or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States or of some State or Territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in this State, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts: *Provided*, That the prohibition of this section shall not apply to cases in which the

right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries; which rights, so far as they may exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer (R. S. 1899, sec. 4764).

Purchase of land by alien not absolutely void under this law. He can perfect title by becoming citizens, but if he fails to become naturalized, he abandons his right to perfect title (*Pembroke v. Houston*, 180 Mo. 627).

SEC. 751.—*Corporation or association not to acquire or hold real estate except in certain instances, etc.*—No corporation or association, more than 20 per cent of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations, not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in this State: *Provided*, That nothing contained in this chapter shall be construed to forbid any person or corporation from acquiring an interest in any real estate in this State as cestui que trust or mortgagee in any deed of trust or mortgage taken in good faith to secure the repayment of any money lent upon such real estate and interest thereon, nor as assignee of such cestui que trust or mortgagee, nor to forbid the person or corporation lending such money or becoming such assignee from purchasing such real estate at its sale upon foreclosure of said deed of trust or mortgage, when the amount for which such property is sold at said sale does not exceed the amount due under said deed of trust or mortgage at the time of such sale and the costs of such foreclosure: *Provided, however*, That all right, title, or interest acquired by such person or corporation at such sale or foreclosure shall be forfeited to the State of Missouri unless such person or corporation shall in good faith sell all of such right, title, and interest to a citizen of the United States within six years after the person or corporation so purchasing at such sale or foreclosure shall have held the possession of such real estate according to the interest purchased or acquired by him or it at such sale or foreclosure (R. S. 1899, sec. 4765).

SEC. 752. *Property to be forfeited to State for violation of this chapter—duty of attorney general, prosecuting, and circuit attorneys.*—All property acquired, held, or owned in violation of the provisions of this chapter shall be forfeited to the State of Missouri, and it shall be the duty of the attorney general or circuit or prosecuting attorney of the proper city or county to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceeding that may be commenced to enforce the provisions of this chapter, it shall be the duty of the court to determine the very right of the matter, without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the State or of the parties concerned, in any such proceeding arising out of the matters in this chapter mentioned. (R. S. 1899, § 4766.)

An alien can acquire title to land subject to ouster by State only, and he can perfect title by becoming a citizen. (*Pembroke v. Huston*, 180 Mo. 627.)

NEBRASKA.

[Constitution, art. 1, sec. 25.]

There shall be no discrimination between citizens of the United States in respect to the acquisition, ownership, possession, enjoyment, or descent of property.

The right of aliens in respect to the acquisition, enjoyment, and descent of property may be regulated by law.

ACT OF THE LEGISLATURE OF NEBRASKA, SESSION OF 1921.

[House roll No. 138.]

A BILL For an act to amend section 6273, 6275, and 6276 of the Revised Statutes of Nebraska for 1913 and to repeal said original section.

Be it enacted by the people of the State of Nebraska:

SECTION 1. That section 6273 of the Revised Statutes of Nebraska for 1913 be amended to read as follows:

"6273, Sec. 87. Aliens and corporations not incorporated under the laws of the State of Nebraska are hereby prohibited from acquiring title to or taking or holding any land or real estate, or any leasehold interest extending for a period for more than five years or any other greater interest less than fee in any land or real estate in this State by descent, devise, purchase, or otherwise, only as hereinafter provided, except that the widow and heirs of aliens who have, prior to March 16, 1889, acquired lands in this State under the laws thereof, may hold such lands by devise or descent for a period of 10 years and no longer, and if at the end of such time herein limited such lands so acquired have not been sold to a bona fide purchaser for value, such lands

or other interest therein shall revert and escheat to the State of Nebraska, and it shall be the duty of the county attorney in the counties where such lands are situated to enforce forfeitures of all such lands or other interests therein as provided by this article. Any resident alien may acquire title to lands in this State by devise or descent only, provided such alien shall be required to sell and convey said real property within five years from the date of acquiring the same, and if he shall fail to dispose of the same to a bona fide purchaser for value within said time said land and property shall revert and escheat to the State of Nebraska. No corporation organized under the laws of this State and no corporation organized under the laws of any other State or country, doing business in this State, which were organized to hold or are holding real estate, except real estate necessary for the construction and operation of railroads or real estate necessary for the purpose of erecting and maintaining manufacturing establishments, or real estate lying within the corporate limits of cities and towns, shall elect aliens as members of its board of directors or board of trustees in number sufficient to constitute a majority of such board nor elect aliens as executive officers or managers nor shall have a majority of capital stock owned by aliens; and any such corporation violating the provisions of this section shall be construed and held to be an alien and within the provisions of this article applicable to alien persons. Any such domestic corporation violating the provisions of this article shall forfeit their charter and be dissolved. Any such foreign corporation violating the provisions of this article shall forfeit its right to do business in the State of Nebraska."

SEC. 2. That section 6275 of the Revised Statutes of Nebraska for 1913 be amended to read as follows:

"6275, SEC. 89. Any alien who owned land in this State on the date of the passage and taking effect of this act may dispose of the same during his life to bona fide purchasers for value, and may take security for the purchase money with the same rights as to securities as a citizen of the United States except as hereinafter limited by this article."

SEC. 3. That section 6276 of the Revised Statutes of Nebraska for 1913 be amended to read as follows:

"6276, SEC. 90. This article shall not, nor shall anything in the statutes of Nebraska, prevent the holders, whether aliens or corporations not organized under the laws of the State of Nebraska, of aliens upon real estate or any interest therein, whether heretofore or hereafter acquired, from holding or taking valid title to the real estate subject to such liens, nor shall it prevent any such alien or corporation from enforcing any lien or judgment for any debt or liability now existing, or which may hereafter be created, nor from becoming a purchaser at any sale made for the purpose of collecting or enforcing the collection of such debt or judgment: *Provided, however,* All lands so acquired shall be sold within 10 years after the title thereto shall be perfected in such alien or foreign corporation, and in default of such sale within such time, such real estate shall revert and escheat to the State of Nebraska, as provided in this article: *Provided further,* The provisions of this article shall not apply to the real estate necessary for the construction and operation of railroads: *And provided further,* Nothing in this article shall be construed to prohibit any alien or foreign corporation from purchasing and acquiring title to so much real estate as shall be necessary for the purpose of erecting and maintaining manufacturing establishments: *And provided further,* The provisions of this article shall not apply to any real estate lying within the corporate limits of cities and towns: *And provided further,* That the provisions of this article shall not apply to any real estate acquired by any alien prior to the passage and taking effect of this act, as long as such real property shall remain the property of such alien."

SEC. 4. That sections 6273, 6275, and 6276 of the Revised Statutes of Nebraska for 1913 be, and the same are hereby, repealed.

WALTER L. ANDERSON,
Speaker of the House.
F. P. CORRICK,
Chief Clerk of the House.
PELHAM A. BARROWS,
President of the Senate.
CLYDE H. BARNARD,
Secretary of the Senate.

Approved April 25, 1921, 2 o'clock p. m.

SAMUEL R. MCKELVIE, *Governor.*

This is to certify that the within house roll No. 138 originated in the house and passed the legislature at its fortieth session on the 23d day of April, 1921.

F. P. CORRICK,
Chief Clerk House of Representatives.

CONSTITUTION OF OKLAHOMA.

[Art. 22.—Ownership of land.]

SECTION 1. *Alien ownership of land prohibited.*—No alien or person who is not a citizen of the United States shall acquire title to or own land in this State, and the legislature shall enact laws whereby all persons not citizens of the United States, and their heirs, who may hereafter acquire real estate in this State by devise, descent, or otherwise, shall dispose of the same within five years upon condition of escheat or forfeiture to the State: *Provided*, This shall not apply to Indians born within the United States, nor to aliens or persons not citizens of the United States who may become bona fide residents of this State: *And provided further*, That this section shall not apply to lands now owned by aliens in this State.

In the following States aliens may hold real property:

Alabama (1901), 34; Arkansas (1874), 2, 20; Colorado (1876), 2, 26; Florida (1885), 1, 18; Iowa (1857), 1, 22; Montana (1889), 3, 25; Nebraska (1875), 1, 25; Nevada (1864), 1, 16; Oregon (1857), 1, 32; South Dakota (1889), 6, 14; Vermont (1793), 2, 39; West Virginia (1872), 2, 5; Wisconsin (1848), 1, 15; Wyoming (1889), 1, 29.

The legislature may regulate rights of aliens as to ownership of real property, etc.:

Kansas (1859), Bill of Rights, section 17; Mississippi (1890), 84; South Carolina (1895), 3, 35.

Foreigners of the white race or of African descent eligible to become citizens of the United States under the naturalization laws, may hold real property: California (1879), 1, 17.

SEC. 2. *Corporations prohibited from acquiring or holding land—Exceptions.*—No corporation shall be created or licensed in this State for the purpose of buying, acquiring, trading, or dealing in real estate other than real estate located in incorporated cities and towns and as additions thereto; nor shall any corporation doing business in this State buy, acquire, trade, or deal in real estate for any purpose except such as may be located in such towns and cities and as additions to such towns and cities, and, further, except such as shall be necessary and proper for carrying on the business for which it was chartered or licensed; nor shall any corporation be created or licensed to do business in this State for the purpose of acting as agent in buying and selling land: *Provided, however*, That corporations shall not be precluded from taking mortgages on real estate to secure loans or debts or from acquiring title thereto upon foreclosure of such mortgages or in the collection of debts, conditioned that such corporation or corporations shall not hold such real estate for a longer period than seven years after acquiring such title: *And provided further*, That this section shall not apply to trust companies taking only the naked title to real estate in this State as a trustee, to be held solely as security for indebtedness pursuant to such trust: *And provided further*, That no public-service corporation shall hold any land, or the title thereof, in any way whatever in this State, except as the same shall be necessary for the transaction and operation of its business as such public-service corporation.

Corporations prohibited from holding real estate over five years not essential to the conducting of the business permitted by their charter: Kentucky (1890), section 192; *German Insurance Co. v. Commonwealth* (133 S. W. (Ky.), 793).

California (1879), 12, 9; Kentucky (1890), 192; Louisiana (1898), 265; Michigan (1908), 12, 5; Mississippi (1890), 84; Missouri (1875), 12, 7; Pennsylvania (1873), 16, 6; South Dakota (1889), 17, 7.

The word "create" defined: *Indianapolis v. Navine* (151 Ind. 139, 47 N. E. 525, 41 L. R. A. 337).

The term "license." See article 10, section 1, *supra*.

Escheat: Kentucky (1890), 192; *Louisville School Board v. King* (32 Ky. L. R. 687, 107 S. W. 247).

Forfeiture: Unless it is expressly so provided only the State may raise such question. *Plummer v. Chesapeake & Ohio Railway Co. of Kentucky* (Ky.), 136 S. W., 162.

See also *Lynch v. Perryman* (Okla. Sup. Ct.), decided July, 1911, term.

PENNSYLVANIA—PURDON'S DIGEST OF STATUTE LAW, THIRTEENTH EDITION.

I. *Of the capacity of aliens to purchase, etc.*—1. Every person being a citizen or subject of any foreign State shall be able and capable in law of acquiring and taking, by devise or descent, lands or other real property in this Commonwealth³ and of holding

³ This act does not enable an alien to take by descent from an alien ancestor. Upon the death of an alien unaturalized, and having taken none of the necessary steps, the land he has purchased escheats to the Commonwealth: *Rubeck v. Gardner* (7 W. 455, 1838). See this case for a reference to the several acts of assembly upon the subject.

and disposing of the same in as full and ample a manner as the citizens of this State may or can do, and no such land or estate, so held by devise or descent, shall escheat or be forfeited to the Commonwealth, for or on account of the alienage of such person claiming the same under any last will, or succeeding thereto according to the laws of this Commonwealth.

2. All such persons shall be able and capable in law to dispose of any goods and effects, to which they may be entitled within this State, either by testament, donation, or otherwise; and their representatives, in whatever place they may reside, shall receive the succession, according to the laws of this Commonwealth, either in person or by attorney, in the same manner as if they were citizens of this Commonwealth.

3. *Provided*, That nothing herein contained shall be construed to prevent the sequestration of any real or personal estate belonging to any such alien, during the continuance of war between the United States of America and the State or prince of which such person may be a citizen or subject.

4. It shall and may be lawful for any alien⁴ or aliens actually resident within this Commonwealth, and not being the subject or subjects of some sovereign State or power, which is or shall be, at the time or times of such purchase or purchases, at war with the United States of America, to purchase lands, tenements, and hereditaments within this Commonwealth, and to have and to hold the same in fee simple, or for any lesser estate, as fully, to all intents and purposes, as any natural-born citizen or citizens may or can do: *Provided always*, That such alien or aliens shall, previously to such purchase or purchases, declare his or their intention to become a citizen or citizens of the United States, agreeably to any law of the United States, at that time in force upon that subject: *And provided also*, That no such alien or aliens shall be competent to purchase and hold more than 500 acres, until he or they shall have actually become a citizen or citizens of the United States.⁵

5. Where any alien or aliens, resident as aforesaid, may heretofore have purchased any land or other real estate within this Commonwealth, after having declared his intention to become a citizen, in conformity with an act of Congress at that time in force upon that subject, the same purchase shall be as valid to all intents and purposes, and shall be construed to vest the said land or real estate in the said alien or aliens, as fully and absolutely as though the said declaration had been made in conformity to the act of Congress entitled "An act supplementary to and to amend the act entitled 'An act to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject,'" passed the 18th day of June, 1798.⁶

6. It shall be lawful for any alien who, on the 18th day of June, 1812, resided and has since continued to reside in this State, and who is the subject of any sovereign, State, or nation, at war with the United States, after having filed, according to law, a declaration of his intention to become a citizen of the United States, to receive, hold, and convey any lands and tenements within this Commonwealth, not exceeding in quantity 200 acres, nor in value \$20,000, as fully, to all intents and purposes, as a citizen of the United States can do.

7. It shall and may be lawful for all and every foreigner and foreigners, alien or aliens, not being the subject or subjects of some sovereign state or power which is or shall be, at the time or times of such purchase or purchases, at war with the United States of America, to purchase lands, tenements, and hereditaments within this Commonwealth, not exceeding 5,000 acres, and to have and to hold the same to them, their heirs, and assigns forever, as fully, to all intents and purposes, as any natural-born citizen may or can do.⁷

8. All purchases of real estate made by emigrants resident within this Commonwealth previous to declaring their intentions to become citizens of the United States, and who, since purchasing the same, have been naturalized in conformity with the laws of the United States on that subject, shall be as valid to all intents and purposes, and

⁴ At common law, upon the death of an alien, the land which he may have purchased, escheats and vests in the Commonwealth, without any inquest of office: *Rubeck v. Gardner* (7 W. 438, 1838).

⁵ This act empowers an alien to acquire and hold shares of corporate stock, to vote at corporate elections, and to hold a corporate office: *Commonwealth v. Woelper* (3 S. & R. 29, 1817). Quo warranto proceedings based only on the fact that one of the directors of a corporation is an alien will fail; an alien shareholder is entitled to act as director: *Commonwealth v. Detwiler* (131 Pa. 614, 1890, reversing 1 North. Co. 257, 1889). A person born in Great Britain before the Revolution was an alien, and could not take lands in Pennsylvania by descent: *Jackson v. Burns* (3 Binn. 75, 1810). One born in New York in 1760, who removed to Ireland, where he stayed from 1771 to 1795, when he returned to America, was not a citizen of the United States: *Hollingsworth v. Duane* (Wall. C. C. (U. S.), 51, s. c., Fed. Cas. No. 6615, 1801). Residents of Louisiana at the time of the treaty of 1803, by which Louisiana was ceded to the United States, became citizens without naturalization: *Harrold's case* (1 Clark. 214, 1840).

⁶ This act of Congress has been repealed.

⁷ An alien under this act acquires no title in his wife's estate or inheritance, as tenant by the curtesy initiate: *Reese v. Waters* (4 W. and S. 145, 1842.) But an alien widow of a foreigner resident here who had died without any declaration of intention to become a citizen is entitled to dower: *Ondis v. Banta* (7 Kulp, 390, 1894).

shall be construed to vest the title to the said real estate in the purchasers, as fully and absolutely as if they had been citizens at the time they purchased the same.

9. All purchases of lands, tenements, and hereditaments, within this Commonwealth, not exceeding 5,000 acres, heretofore made, by all and every foreigner and foreigners, alien or aliens, not being the subject or subjects of some sovereign state or power, which is, or shall have been at the time or times of such purchase or purchases, at war with the United States of America, and who are residents within the United States, are hereby confirmed, and it shall be lawful for all and every such foreigner and foreigners, alien or aliens, to have and to hold the same, to them, their heirs and assigns forever, as fully, to all intents and purposes, as any natural-born citizen or citizens may or can do.

10. All purchases of lands, tenements, and hereditaments within this Commonwealth, not exceeding 2,000 acres, heretofore made by any alien or aliens, and in all cases where such aliens shall have inherited the same by descent or otherwise, the title of such alien or aliens is hereby confirmed; and it shall be lawful for such alien or aliens to hold the same as fully and to all intents and purposes, as any citizen of the United States might or could do: *Provided*, That nothing herein contained shall, in anywise, affect or impair the vested rights of any individual or individuals.

11. Aliens may hereafter purchase and hold real estate in this State not exceeding in quantity 5,000 acres, nor in net annual income \$20,000; and whensoever any alien or corporation in this State or elsewhere has acquired any real estate, without the authority of law, or in excess of the limit of law, and shall have heretofore conveyed the same unto any person or persons authorized by law to hold the same, the title thereto shall be indefeasible by the Commonwealth by any subsequent proceeding.

11. *Of titles derived through aliens.*—12. The heirs, devisees, and assigns of persons born out of the allegiance of the Crown of Great Britain, and who have removed to this or any of the adjoining States for the purpose of settling, and who have died, not having been naturalized, shall hold their estates, respectively, as if such person so having died, and not having been naturalized, had been born in allegiance to the said Crown of Great Britain, or had been naturalized by law, in due form made and enacted for that purpose.

13. In all cases where aliens have purchased real estate within this Commonwealth, and have sold the same, the said sales shall be valid, to all intents and purposes, and shall be construed to vest the title to the said real estate, as fully and effectually as if the said aliens had been citizens at the time of purchasing the same; and in all cases where any alien residing in this Commonwealth, shall have purchased or held real estate therein, and shall have died without having been naturalized, the title thereof is hereby confirmed to his heirs, who, in case he had been a citizen would have inherited the same (or to his devisee or devisees), and there shall be no escheat by reason of such alienage: *Provided*, That nothing herein contained shall in anywise affect or impair the vested rights of any other individual or individuals.

14. In all cases where aliens have purchased real estate within this Commonwealth, and have sold the same to citizens of the United States, the said sales shall be valid, to all intents and purposes, and shall be construed to vest the title to the said real estate, in the citizens aforesaid, as fully and effectually as if the said aliens had been citizens at the time of purchasing the same.

15. The title to any real estate in this Commonwealth, derived from any person who is or was in his or her lifetime a citizen of the United States, to his or her lineal descendants, although the same may have been conveyed or devised, or may have descended to such lineal descendants from an alien, is hereby confirmed, so far as that there shall be no escheat by reason of alienage in such case; but such lineal descendants may hold and transmit the title to such real estate to his, her, or their heirs or assigns: *Provided*, That nothing herein contained shall in any wise affect or impair the vested rights of any other individual or individuals.

16. Whensoever any alien, or any foreign corporation or corporations of another or of this State, shall have held title to real estate within this State, which he or they were not, by the laws of this Commonwealth, authorized to hold, and shall have heretofore conveyed such title to any citizen of the United States, before any inquisition shall have been taken against the real estate so held, to escheat the same, such citizens shall hold, and may convey such title and real estate, indefeasibly as to any right of escheat in this Commonwealth, by reason of such real estate having been held by an alien, or corporation not authorized to hold the same or to the extent in which it had been held.

17. All conveyances of real estate in this Commonwealth, made in trust for, or made to or by, any alien or aliens, before the passage of the act approved the 1st day of May, A. D. 1861, entitled "A supplement to an act relating to corporations, passed the 26th day of April, A. D. 1855," shall be entitled to the benefits of that act, as though made after the passage thereof, and they are hereby ratified and con-

firmed; and the premises held in trust for said alien or aliens, may be conveyed directly to them; and such alien or aliens may hold or convey such estate, as fully as any citizen of the United States: *Provided*, That the amount so to be held and conveyed shall not exceed the amount named in this act, viz, 5,000 acres; and that this act shall not affect any pending litigation, or any case heretofore decided.

18. When any conveyances of real estate in this Commonwealth have been made by any alien or any foreign corporation or corporations of another or of this State, to any citizen of the United States, since the passage of the act, approved the 9th day of January, A. D. 1861, entitled "An act to enable citizens to hold title which had been held by aliens and corporations," such citizens shall be entitled to the benefits of said act as though said conveyances were made before the passage thereof, and shall hold, and may convey, such real estate and the title thereof indefeasibly as to any right of escheat in this Commonwealth, by reason of such real estate having been held by an alien or corporation not authorized by the laws of this Commonwealth to hold the same.

19. Where any conveyances of real estate in the Commonwealth have been or shall be made by an alien or any foreign corporation or corporations of another or of this State to any citizens of the United States, or to any corporation chartered under the laws of this Commonwealth and authorized to hold real estate, before any inquisition shall have been taken against the real estate so held to escheat the same, such citizens or corporation, grantee as aforesaid, shall hold and may convey such title and estate indefeasibly as to any right of escheat in this Commonwealth by reason of such real estate having been held by an alien or corporation not authorized to hold the same by laws of this Commonwealth.

20. Where any conveyances of real estate in this Commonwealth have been made by an alien, or any foreign corporation or corporations of another or of this State, or by the officers of any such corporation after dissolution or expiration of charter, since the 15th day of June, 1897, to any citizen of the United States or to any corporation chartered under the laws of this Commonwealth and authorized to hold real estate, before any inquisition shall have been taken against the real estate so held to escheat the same, such citizens or corporations, grantee as aforesaid, shall hold and may convey such title and estate indefeasibly, as to any rights of escheat in this Commonwealth, by reason of such real estate having been held by an alien or corporation not authorized to hold the same by the laws of this Commonwealth.

21. That the provisions of the act entitled "An act to enable citizens to hold title which had been held by aliens and corporations," approved the 9th day of January, A. D. 1861, be, and hereby are, extended to all sales and conveyances of real estate which had been made prior to the passage of this act.

ALIEN LAND LAW OF TEXAS.

[Senate bill No. 142.]

AN ACT To amend title 3 of the Revised Civil Statutes of the State of Texas, 1911, entitled "Aliens," relating to the rights, powers, and disabilities of aliens and of certain companies, associations, and corporations with respect to property in this State, providing for escheats in certain cases, prescribing the procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, prescribing penalties for the violation of the provisions hereof, and repealing all acts or parts of acts inconsistent or in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That title 3 of the Revised Civil Statutes of the State of Texas, 1911, and all amendments thereto be amended so as to hereafter read as follows:

ART. 15. No alien or person who is not a citizen of the United States shall acquire title to or own any lands in the State of Texas, or acquire any leasehold or other interest in such lands, except as hereinafter provided; but he shall have and enjoy in the State of Texas such rights as to personal property as are or shall be accorded to citizens of the United States by the laws of the nation to which such alien shall belong, or by the treaties of such nation with the United States, except as the same may be affected by the provisions of this title and the general laws of the State.

ART. 16. This title shall not apply to any land now owned in this State by aliens, not acquired in violation of any law of this State, so long as it is held by the present owners; nor to lots or parcels of land owned by aliens in any incorporated town or city of this State, nor to the following classes of aliens who are, or who shall become, bona fide inhabitants of this State, so long as they shall continue to be such bona fide inhabitants of the State of Texas:

(1) Aliens who were bona fide inhabitants of this State on the date on which this act becomes a law

(2) Aliens eligible to citizenship in the United States who shall become bona fide inhabitants of this State, and who shall, in conformity with the naturalization laws

of the United States, have declared their intention to become citizens of the United States.

(3) Aliens who are natural born citizens of nations which have a common land boundary with the United States.

(4) Aliens who are citizens or subjects of a nation which now permits American citizens to own land in fee in such country; and any resident alien who shall acquire land under the provisions of this article shall have five years after he shall cease to be a bona fide inhabitant of this State in which to alienate said land.

ART. 17. The provisions of this title shall not prevent aliens from acquiring lands, or any interest therein, in the ordinary course of justice in the collection of debts, nor from acquiring liens upon real estate, or any interest therein; nor from lending money and securing the same upon real estate, or any interest therein, upon which a lien may have heretofore or may hereafter be fixed, or upon which a loan of money may have been heretofore or hereafter may be made and secured.

ART. 18. All aliens prohibited from owning land in this State under the provisions of this title who shall hereafter acquire real estate in Texas by devise, descent, or by purchase as permitted by this title, may hold same for five years; and if such alien is a minor he may hold same for five years after attaining his majority, or if of unsound mind for five years after the appointment of a legal guardian.

ART. 19. Any alien who shall hereafter hold lands in Texas in contravention of the provisions of this title may, nevertheless, convey the fee simple title thereof at any time before the institution of escheat proceedings, as hereinafter provided: *Provided, however*, That if any such conveyance shall be made by such alien either to an alien or to a citizen of the United States in trust, and for the purpose and with the intention of evading the provisions of this title, such conveyance shall be null and void; and any such land so conveyed shall be forfeited and escheated to the State absolutely.

ART. 20. It shall be the duty of the attorney general, or the district or county attorney, when he shall be informed or have reason to believe that lands in the State are being held contrary to the provisions of this title, to institute suit in behalf of the State of Texas in the district court of the county where such lands are situated praying for the escheat of the same on behalf of the State, as in case of estates of persons dying without devise thereto and having no heirs.

ART. 21(a). No alien shall ever be appointed or permitted to qualify as guardian of the estate of any minor or person of unsound mind, or as executor or administrator of the estate of the decedent in this State, unless he is permitted to own land under the provisions of this title.

ART. 21(b). No corporation in which the majority of the capital stock is legally or equitably owned by aliens prohibited by law from owning land in the State of Texas shall acquire title to or own lands in the State of Texas, or any leasehold or other interest in such lands; and land so owned shall be subject to escheat under the provisions of this title as though owned by a nonresident alien.

ART. 21(c). Land owned in trust, either by an alien or by a citizen of the United States, for the beneficial use of any alien or aliens, or any corporation prohibited from owning land in this State under the provisions of this title, shall be subject to forfeiture as though the legal title thereto was in such alien or corporation.

ART. 21(d). All aliens now owning lands in the State of Texas shall on or before the 1st day of January, 1923, file a written report under oath, with the clerk of the county court of the county in which said land is located, giving the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date and place of arrival of said alien in the United States, and his or her present residence and post-office address, and the length of time of residence in the State of Texas, the foreign prince, potentate, State, or sovereignty, of which the alien may be at the time a citizen or subject, and the number of acres of land owned by such alien in such county, the name and number of the survey, the abstract and certificate number, the name of the person or persons from whom acquired, the date when acquired, and shall either describe said land by metes and bounds, or refer to recorded deed in which same is so described, which report shall be known as "Report of alien ownership": *Provided further*, That all aliens hereafter purchasing or in any manner acquiring lands located in Texas, shall within six months after such purchase, or acquisition, file with the county clerk of the county in which such land is located a "Report of alien ownership," in terms as above required.

Any alien who may own land in Texas, or who may hereafter acquire any land in Texas, by purchase or otherwise, who does not, within the time prescribed in this article, file the reports herein provided for, shall be subject to have such land forfeited and escheated to the State of Texas. The reports herein required shall, when the alien is a minor or insane person, be filed by the parent or guardian of such alien. It shall be the duty of the clerk of the county court of each county to file and record

the reports above provided for in a separate volume, to be entitled "Record of alien lands," for said county, which record shall be alphabetically indexed. The recording fees for recording such reports shall be paid by the alien owner.

SEC. 2. All laws and parts of laws in conflict herewith are hereby expressly repealed.

SEC. 3. The fact that aliens who do not propose becoming citizens of the United States are now attempting to acquire title to large bodies of fertile land in this State creates an emergency and an imperative public necessity that this bill shall and it hereby does take effect from and after its passage, and it is so enacted.

PAUL D. PAGE,
President of the Senate.
CHAS. G. THOMAS,
Speaker of the House.

I hereby certify that senate bill 142 passed the senate February 17, 1921, and that the senate concurred in house amendments March 11, 1921.

W. V. HOWERTON,
Secretary of the Senate.

I hereby certify that senate bill 142 passed the house with amendments March 10, 1921.

N. K. BROWN,
Chief Clerk of the House.

Received in the executive office this 11th day of March, A. D. 1921, at 4 o'clock and 45 minutes p. m.

R. B. WALTHALL,
Secretary to the Governor.

Approved, April 1, 1921.

PAT M. NEFF, *Governor.*

Received in the Department of State this 1st day of April, A. D. 1921, at 2 o'clock and minutes p. m.

S. L. STAPLES,
Secretary of State.

STATE CONSTITUTION OF WASHINGTON.

ART. 2.

SEC. 33. *Alien ownership of lands.*—The ownership of lands by aliens, other than those who in good faith have declared their intention to become citizens of the United States, is prohibited in this State, except where acquired by inheritance, under mortgage, or in good faith in the ordinary course of justice in the collection of debts; and all conveyances of lands hereafter made to any alien directly or in trust for such alien shall be void: *Provided*, That the provisions of this section shall not apply to lands containing valuable deposits of minerals, metals, iron, coal, or fire clay, and the necessary land for mills and machinery to be used in the development thereof and the manufacture of the products therefrom. Every corporation the majority of the capital stock of which is owned by aliens shall be considered an alien for the purposes of this prohibition.

State only can raise question of alien ownership—Alien's conveyance to citizen valid. *Prentice v. How.*, 84 W. 136.

After conveyance to citizen State can not escheat. *State ex rel. Atkinson v. World, etc., Co.*, 46 W. 104.

Limestone, etc., are minerals and within provision. *State ex rel. Atkinson v. Evans*, 46 W. 219.

Conveyance to alien valid except against the State—Title by inheritance—State must act in lifetime of owner. *Abrams v. State*, 45 W. 327.

Incapacity of alien may be interposed as defense in condemnation—Foreign stockholders of domestic corporations. *State ex rel. Morrell v. Superior Court*, 33 W. 542.

Lease for 99 years held invalid. *State ex rel. Winston v. Morrison*, 18 W. 664.

Majority of stockholders must be citizens during all time of ownership—Lease for 49 years held void. *State ex rel. Winston v. Hudson Land Co.*, 19 W. 85.

Mortgagor may convey to alien in satisfaction of mortgage. *Oregon Mortgage Co. v. Carstens*, 16 W. 165.

Alien holds title against all the world except the State, *id.* *Goongan v. Richardson*, 16 W. 373.

Alien holding title defeasible by the State can convey good title, *id.*

Will is not void because it contains a devise to an alien. *Brigham v. Kenyon*, 76 Fed. Rep. 30.

ALIEN LAND LAW OF THE STATE OF WASHINGTON.

[Chapter 50.]

AN ACT Relating to the rights and disabilities of aliens with respect to lands, providing for forfeitures in certain cases, prescribing penalties, and repealing sections 135 and 136, Pierce's Code, 8775 and 8776, of Remington and Ballinger's Annotated Codes and Statutes of Washington.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. In this act, unless the context otherwise requires—

(a) "Alien" does not include an alien who has in good faith declared his intention to become a citizen of the United States but does include all other aliens and all corporations and other organized groups of persons a majority of whose capital stock is owned or controlled by aliens or a majority of whose members are aliens;

(b) "Land" does not include lands containing valuable deposits of minerals, metals, iron, coal, or fire clay, or the necessary land for mills and machinery to be used in the development thereof and the manufacture of the products therefrom, but does include every other kind of land and every interest therein and right to the control, possession, use, enjoyment, rents, issues, or profits thereof, except a mortgage and except a right to the possession, use, or enjoyment of land for a period of not more than 10 years for a purpose for which an alien is accorded the use of land by a treaty between the United States and the country whereof he is a citizen;

(c) "Land" also includes any share or interest in a corporation or other organized group of persons deemed an alien in this act which has title to land either heretofore or hereafter acquired;

(d) To "own" means to have the legal or equitable title to or the right to any benefit of;

(e) "Title" includes every kind of legal or equitable title;

(f) Ownership of or title to land acquired by inheritance or in good faith either under mortgage or in the ordinary course of justice in the collection of debts, or acquired by a female citizen afterwards expatriated by marriage to an alien, is excluded;

(g) "Inheritance" includes devise;

(h) "Mortgage" includes every kind of lien upon land;

(i) A mortgage of land under which an alien is entitled before default to any control, possession, use, or enjoyment of the land is an absolute conveyance; and

(j) "Person" includes an individual, partnership, corporation, or any other organized group of persons.

SEC. 2. An alien shall not own land or take or hold title thereto. No person shall take or hold land or title to land for an alien. Land now held by or for aliens in violation of the constitution of the State is forfeited to and declared to be the property of the State. Land hereafter conveyed to or for the use of aliens in violation of the constitution or of this act shall thereby be forfeited to and become the property of the State.

SEC. 3. An alien is not qualified to be trustee under a will, executor, administrator, or guardian if any part of the estate is land: *Provided*, An alien now lawfully acting in any such capacity may continue for not more than two years.

SEC. 4. If hereafter an alien acquire land by inheritance or in good faith either under mortgage or in the ordinary course of justice in the collection of debts, and, remaining an alien, hold the same for more than 12 years from the date title was so acquired or control or possession taken, the land shall be forfeited to the State.

SEC. 5. If an alien claiming or holding under a mortgage has control, possession, use, or enjoyment of the mortgaged land, the obligation secured by the mortgage shall be deemed matured and the mortgage shall be foreclosed; and if the land be not sold under foreclosure within three years after the alien has obtained control, possession, use, or enjoyment the mortgage and the obligation thereby secured shall be forfeited to the State and shall be foreclosed for the use of the State.

SEC. 6. Unless an alien who has declared his intention to become a citizen of the United States be admitted to citizenship within seven years after his declaration was made, it shall be presumed that he declared his intention in bad faith.

SEC. 7. Whoever—

(a) Knowingly transfers or conveys land or title to land to an alien; or

(b) Knowingly takes land or title to land in trust for an alien; or

(c) Holding in trust for an alien land or title to land, either heretofore or hereafter acquired, fails for 30 days after acquiring knowledge or notice that he holds in trust for an alien to disclose the fact to the attorney general or the prosecuting attorney of the county where the land is situated; or

(d) Being an alien and having title to land or control, possession, use, or enjoyment of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of his interest in and title to the land; or

(e) Being an officer or agent of a corporation or other organized group of persons which has title to land or control, possession, use, or enjoyment of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of the interest of persons not citizens of the United States in the corporation or other organized group of persons; or

(f) Being an officer or agent of a corporation or other organized group of persons which holds in trust for an alien title to land or control or possession of land, whether heretofore or hereafter acquired, refuses to disclose to the attorney general or the prosecuting attorney of the county where the land is situated the nature and extent of the alien's interest in and title to the land; or

(g) Willfully counsels, aids, or abets another in violating or evading this act is guilty of a gross misdemeanor.

Sec. 8. It shall be the duty of the attorney general and of the prosecuting attorneys of the several counties to enforce this act and of the attorney general to direct and control its enforcement.

Sec. 9. Property forfeited to the State by this act shall inure to the permanent common-school fund and be managed and disposed of accordingly.

Sec. 10. This act shall not impair any title or right heretofore or hereafter acquired from or derived through an alien in good faith and for value by a person not under an alien's disability.

Sec. 11. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Sec. 12. Sections 135 and 136 Pierce's Code, 8775 and 8776 of Remington and Balinger's Annotated Codes and Statutes of Washington are hereby repealed.

Passed the house February 25, 1921.

E. H. GUIE,
Speaker of the House.

Passed the senate March 2, 1921.

WM. J. COYLE,
President of the Senate.

Approved March 8, 1921.

LOUIS F. HART, *Governor.*

PROPOSED STATE CONSTITUTIONAL AMENDMENTS AFFECTING ALIEN OWNERSHIP OF LAND.

COLORADO.

[Senate bill No. 142. Session 1921.]

To submit to the qualified electors of the State of Colorado an amendment to section 27 of article II, of the constitution of the State of Colorado, concerning property rights of aliens.

Be it enacted by the general assembly of the State of Colorado:

SECTION 1. There shall be submitted to the qualified electors of the State of Colorado at the next general election for members of the general assembly, for their approval or rejection, the following amendment to the constitution of the State of Colorado, which, when ratified by a majority of those voting thereon, shall be valid as a part of the constitution.

Sec. 2. Section 27 of article 2 of the constitution of the State of Colorado shall be amended so as to read as follows:

Sec. 27. The general assembly shall provide by law the right and power of aliens who are or shall be, under acts of Congress or treaties, ineligible to American citizenship; to acquire, inherit, possess, enjoy, and dispose of property, real and personal.

Sec. 3. Each elector voting at said election and desirous of voting for or against said amendment, shall place in the ballot box his or her ticket whereon shall be printed the words "For the amendment to section 27 of article 2, concerning property rights of aliens," and "Against the amendment to section 27 of article 2, concerning property rights of aliens" and shall indicate his or her choice by placing a cross opposite one or the other of said group of words.

Sec. 4. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined by the laws of the State for the canvass of votes for Representatives in Congress.

N. N. McLEAN,
President of the Senate.

ROY A. DAVIS,
Speaker of the House of Representatives.

LOUISIANA.

[Substitute Ordinance No. 452 approved by constitutional convention (now in session).]

ARTICLE 1. *Relative to ownership of property by aliens.*—No alien who is ineligible to citizenship of the United States shall be permitted or allowed or shall have any right whatsoever to acquire by purchase, devise, inheritance, lease, assignment, gift, or otherwise, or shall own or control, directly or indirectly, in his or her name, or through another interposed or by means of any corporation or association, or through ownership in his or her own name or through another of any stock or other form of security, any land or real property of any real rights or interests therein, including mortgage rights, of any kind or character whatsoever within the State of Louisiana.

ART. 2. The legislature may pass any additional legislation to carry the purpose of this article into effect.

NEVADA.

[Proposed repeal of Art. I, sec. 16, of constitution.]

"Foreigners who are or who may hereafter become bona fide residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens."

The repeal of this section was proposed by the legislature at the session of 1921.

Under the provisions of Article XVI, section 1 of the constitution of Nevada, proposed amendments to the constitution are proposed at one session and if agreed to by a majority of both houses shall be referred to the legislature next chosen, and if then agreed to by a majority of both houses it shall at a time agreed to by the legislature be submitted to referendum vote of the people.

The proposed repeal of this section will again be acted upon by the legislature of 1923, and if approved by both houses it will be submitted to a vote of the people for ratification at an election to be held in November, 1923.

NEW MEXICO.

[Joint resolution No. 9 as amended.]

A RESOLUTION PROPOSING AN AMENDMENT TO SECTION 22 OF ARTICLE II OF THE CONSTITUTION OF THE STATE OF NEW MEXICO.

Be it resolved by the Legislature of the State of New Mexico:

SECTION. 1. That section 22 of Article II of the constitution of the State of New Mexico be amended so that the said section shall read as follows:

"Sec. 22. Until otherwise provided by law, no alien, ineligible to citizenship under the laws of the United States, or corporation, copartnership, or association, a majority of the stock or interest in which is owned or held by such aliens, shall acquire title, leasehold, or other interest in or to real estate in New Mexico."

(To be voted on by the people September, 1921.)

PETITIONS AND MEMORIALS TO THE CONGRESS BY STATE LEGISLATURES.

CALIFORNIA.

[Memorial to the Congress relative to naturalization and property rights of aliens, by the Legislature of the State of California.]

SENATE JOINT RESOLUTION NO. 4, BY SENATOR J. M. INMAN.

Adopted in senate January 7, 1921; adopted in assembly January 10, 1921; filed with secretary of state January 11, 1921.

Whereas at the general election held on the 2d day of November, 1920, the people of the State of California, in the exercise of their right reserved under the constitution, by an overwhelming majority, adopted the "alien land law," which, among other things, provides that all aliens ineligible to citizenship under the laws of the United States, may acquire, possess, enjoy, and transfer real property or any interest therein in this State in the manner and to the extent and for the purposes prescribed by any treaty now existing between the Government of the United States and the nation or country of which such alien is a citizen or subject and not otherwise; and Whereas the present treaty of commerce and navigation, between the United States and Japan, proclaimed on the 5th day of April, 1911, in fixing the rights of the nationals of both contracting parties, provides that "the citizens or subjects of each of the high contracting parties shall have liberty to enter, travel, and reside in

the territories of the other to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses, and shops, to employ agents of their choice, to lease land for residential and commercial purposes, and generally, to do anything incident to or necessary for trade, upon the same terms as native citizens or subjects submitting themselves to the laws and regulations there established"; and

Whereas notwithstanding the aforesaid provision of the treaty limiting the purposes for which the subjects of Japan may enter, travel, and reside in the United States, approximately 100,000 Japanese are now residing in California, comparatively few of whom are engaged trade, while the great majority are engaged in agriculture, owning, leasing, and farming lands, and now control one-eighth of the entire acreage of rich irrigated lands in the State, as shown by the official report of the State board of control; and

Whereas Japanese as well as American authorities concede the unassimilability of the two races and grant that a continuance of existing conditions may develop a racial question and grave international complications out of the present economic problem; and

Whereas the evidence before the House Immigration Committee, in hearings held on the Pacific coast in July and August, 1920, clearly indicates the impracticability of making homogeneous American citizenship out of the material coming to us from Japan, and the impossibility of a white community holding its own either in increase of numbers or in economic competition against the racial advantages and birth rate of the Japanese; and

Whereas preliminary negotiations are now pending between the State Department at Washington and representatives of the Empire of Japan with a view of entering into a treaty dealing with the subject of immigration; and

Whereas reports have come to us from our Representatives in Congress that Japan insists that the proposed treaty shall grant the right of citizenship to the subjects of Japan now in the United States, and shall, in effect, nullify the aforesaid "alien land law." Now, therefore, be it

Resolved by the senate and assembly jointly, That the Legislature of the State of California protests against any treaty being made between the United States and Japan whereby the right to citizenship shall be extended to the subjects of Japan; and be it further

Resolved, That any attempt by the treaty-making power of the United States to nullify the aforesaid "alien land law" or to confer upon the subjects of Japan the right to acquire, own, or possess lands within this State, in violation of our State laws, should be opposed, as destructive of State rights reserved under the Constitution of the United States; and be it further

Resolved, That in any treaty hereafter made by the United States and Japan, said "alien land law" be held inviolate and that the rights of the States of the Union to enact legislation respecting the acquisition and ownership of land by aliens within their respective borders be properly safeguarded; and be it further

Resolved, That in any such treaty provision be made prohibiting the further immigration of the subjects of Japan to the United States, save and except merchants, students, and teachers, their servants and employees; and be it further

Resolved, That a copy of these resolutions be forthwith dispatched to the President of the United States, the Secretary of State of the United States, to each of our Senators and Representatives in Congress, and to each member of the Committee on Foreign Relations of the United States Senate.

[Memorial to the Congress relative to immigration by the Legislature of the State of California.]

SENATE JOINT RESOLUTION NO. 26, BY SENATOR WILL R. SHARKEY.

Adopted in senate April 11, 1921; adopted in assembly April 13, 1921; filed with secretary of state April 27, 1921.

Whereas the Japanese Exclusion League of California, representing officially such organizations as the American Legion, War Veterans, Native Sons and Native Daughters of the Golden West, State Federation of Women's Clubs, State Federation of Labor, and various other patriotic, civic, and fraternal bodies, have adopted a statement of policy recommended for adoption by the Government of the United States as urgently required in protection of the Nation's interest against the growing menace of Japanese immigration and colonization; and

Whereas said declaration of principles has been approved by the organizations affiliated with the league—the Los Angeles County Anti-Asiatic Association and the Japanese Exclusion League of Washington; and

Whereas said declaration of principles is in words and figures as follows, to wit:

"First. Absolute exclusion for the future of all Japanese immigration, not only male but female, and not only laborers, skilled and unskilled, but "farmers" and men of small trades and professions; as recommended by Theodore Roosevelt. Permission for temporary residence only for tourists, students, artists, commercial men, teachers, etc.

"Second. Such exclusion to be enforced by United States officials, under United States laws and regulations, as done with immigration, admitted or excluded, from all other countries; and not, as at present, under an arrangement whereby control and regulation is surrendered by us to Japan.

"Third. Compliance on the part of all departments of the Federal Government with the Constitution, and the abandonment of the threat or attempt to take advantage of certain phrasing of that document as to treaties, which it is claimed gives the treaty-making power authority to violate plain provisions of the Constitution in the following matters:

"(a) To nullify State rights and State laws for control of lands and other matters plainly within the State's jurisdiction.

"(b) To grant American citizenship to races of yellow color, which are made ineligible for such citizenship.

"Fourth. For the Japanese legally entitled to residence in California, fair treatment, protection in property rights legally acquired, and the privilege of engaging in any business desired, except such as may be now or hereafter denied by law to all aliens, or to aliens ineligible to citizenship; and provided particularly they may not hereafter buy or lease agricultural lands." Now, therefore, be it

Resolved by the senate and assembly, jointly, That the Legislature of the State of California hereby indorses said declaration of principles and urges that the President, the Department of State, and the Congress of the United States adopt and observe the policy therein stated; and be it further

Resolved, That the secretary of the senate be and she is hereby directed to transmit copies of these resolutions to the President and the Secretary of State of the United States and to each of California's Senators and Representatives in Congress.

UTAH.

[House Joint Memorial No. 1, by Mr. Iverson.]

Petitioning the Congress of the United States to pass such legislation as will prohibit with certain exceptions, the further immigration of oriental aliens and safeguard rights of States to enact such legislation respecting acquisition, succession to and disposition of lands within their borders.

To the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the governor, and the Legislature of the State of Utah, respectfully represent, that

Whereas during the recent years there has arisen in our Western States a very grave problem in connection with immigration and civil rights of oriental aliens; and

Whereas these oriental aliens will always remain separate and distinct from our own people, and there exists a social chasm between them and the white people that will never be successfully crossed, and their presence in large numbers in our midst will always be a source of trouble; and

Whereas certain of our sister States have found it necessary to enact legislation looking to the solution of this problem, and the protection of the rights of their own citizens: Now, therefore, be it

"Resolved by the Legislature of the State of Utah, both houses concurring, that we hereby indorse and commend the recent firm stand taken by the State of California upon this question, and disapprove and condemn the making of any treaty or other agreement between the United States and any oriental nation, or the enactment of any law by Congress, by the terms of which the right to citizenship shall be extended to the people of any oriental nation; and be it further

Resolved, That we favor and urge Congress to enact a law, or to take any other action that may be found necessary and proper, that will prohibit the further immigration of the subjects of oriental nations to the United States, save and except students, merchants, teachers, and their servants and employees; and be it further

Resolved, That in any treaty or agreement hereafter to be made with any oriental nation the right of any State to enact legislation respecting the acquisition, succession to, and disposition of lands within the borders of such State by aliens must always be recognized and safeguarded.

The foregoing house joint memorial was publicly read by title and immediately thereafter signed by the president of the senate, in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 24th day of February, 1921.

THOMAS E. MCKAY,
President of the Senate.

Attest: Q. B. KELLY,
Secretary of the Senate.

The foregoing house joint memorial was publicly read by title and immediately thereafter signed by the speaker of the house, in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 24th day of February, 1921.

E. R. CALLISTER, *Speaker of the House.*

Attest: C. R. BRADFORD,
Chief Clerk of House.

Received from the house this 26th day of February, 1921.

Approved March 1, 1921.

CHARLES R. MABEY, *Governor.*

Received from the governor and filed in the office of the secretary of state this 1st day of March, 1921.

H. E. CROCKETT, *Secretary of State.*

LAWS OF THE TERRITORIES AND OF THE UNITED STATES AFFECTING ALIEN OWNERSHIP OF LAND, ETC.

COMPILED LAWS OF THE TERRITORY OF ALASKA, 1913.

[Charlton Code, pp. 57, 58, sec. 6.]

SEC. 40. *Rights of way for and privileges of toll roads to be granted to and enjoyed by American citizens.*—The Secretary of the Interior is hereby authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in said district, not to exceed 100 feet in width, and ground for station and other necessary purposes, not to exceed 5 acres for each station for each 5 miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said district for the construction of such wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding 20 years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed 20 acres of public land at each terminus at \$1.25 per acre, such lands when located at or near tidewater not to extend more than 40 rods in width along the shore line and the title thereto to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such right of way or station grounds shall be reserved to the United States: *Provided*, That such lands may be located concurrently with the line of such road or tramway, and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: *Provided further*, That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes.

SEC. 101. *Homestead law.*—That all the provisions of the homestead laws of the United States not in conflict with the provisions of this act, and all rights incident thereto, are hereby extended to the district of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu land selections pertaining to any land grant outside of the district of Alaska shall be made, and no land scrip or land warrant of any kind whatsoever shall be located within or exercised upon any lands in said district except as now provided by law; and provided further that no more than 160 acres shall be entered in any single body by such scrip, lieu selection, or soldier's additional homestead right; and provided further that no location of scrip, selection, or right along any navigable or other waters shall be made within the distance of 80 rods of any lands, along such waters, theretofore

located by means of any such scrip or otherwise: and provided further that no commutation privileges shall be allowed in excess of 160 acres included in any homestead entry under the provisions hereof: *Provided*, That no entry shall be allowed extending more than 160 rods along the shore of any navigable water, and along such shore a space of at least 80 rods shall be reserved from entry between all such claims; and that nothing herein contained shall be so construed as to authorize entries to be made or title to be acquired to the shore of any navigable waters within said district; and no patent shall issue hereunder until all the requirements of sections 2291, 2292, 2305 of the Revised Statutes of the United States have been fully complied with as to residence, improvements, cultivation, and proof except as to commuted lands as herein provided: *And it is further provided*, That every person who is qualified under existing laws to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in the district of Alaska, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations hereof, be entitled to enter 320 acres or a less quantity of unappropriated public land in said district of Alaska. If any of the land so settled upon, or to be settled upon, is unsurveyed, then the land settled upon, or to be settled upon, must be located in a rectangular form, not more than 1 mile in length, and located by north and south lines run according to the true meridian; that the location so made shall be marked upon the ground by permanent monuments at each of the four corners of the said location, so that the boundaries of the same may be readily and easily traced; that the record of said location shall, within 90 days from the date of settlement, be filed for record in the recording district in which the land is situated. Said record shall contain the name of the settler, the date of the settlement, and such a description of the land settled upon, by reference to some natural object or permanent monument, as will identify the same: and, if after the expiration of the said period of five years or at such date as the settler may desire to commute the public surveys of the United States have not been extended over the land located, a patent shall nevertheless issue for the land included within the boundaries of said location as thus recorded, upon proof to be submitted to the register and receiver of the proper land office, upon proof that he is a citizen of the United States, and upon the further proof required by section 2291 of the Revised Statutes of the United States as heretofore and herein amended, and under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section 10 of the act hereby amended, and under such rules and regulations as shall be prescribed by the Secretary of the Interior as hereinbefore provided, without the payment of any purchase price or other charges, except the ordinary office fees and commissions of the register and receiver except \$1.25 per acre on land commuted: *And provided always*, That no title shall be obtained hereunder to any of the mineral or coal lands of the district of Alaska: *And it is further provided*, That any bona fide settler under the preemption, homestead, or other settlement law shall have the right to transfer, by warranty against his own act, any portion of his claim for church, cemetery, or school purposes, or for the right of way of railroads, telegraph, telephones, canals, reservoirs, or ditches for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim.

Charlton Code, pages 93-94.

NOTE.—Section 10 referred to in the foregoing section will be found in chapter 2, section 92, *supra*, and for section 2291, as amended June 6, 1912, see section 101c or 2301; and for 2292 and 2305, referred to in the foregoing section, see sections 101d and 101g, *ante*.

Widow or minor children of deceased entitled to remain in possession (see Code of Civil Procedure, sec. 1647).

Exemption of homesteads from judicial sale (see Code of Civil Procedure, sec. 1104).

SEC. 101a. Every person who is the head of a family, or who has arrived at the age of 21 years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than 160 acres of land in any State or Territory shall acquire any right under the homestead law. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate 160 acres.

SEC. 101b. That any person applying to enter land under the preceding section shall first make and subscribe before the proper officer and file in the proper land

office an affidavit that he or she is the head of a family, or is over 21 years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a name for himself or herself, and that he or she has not directly or indirectly made and will not make any agreement or contract in any way or manner with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself or herself, and upon filing such affidavit with the register or receiver on payment of \$5 when the entry is of not more than 80 acres, and on payment of \$10 when the entry is for more than 80 acres, he or she shall thereupon be permitted to enter the amount of land specified.

SEC. 129. *Mining claims.*—The laws of the United States relating to mining claims, mineral locations, and rights incident thereto are hereby extended to the District of Alaska: *Provided*, That subject only to such general limitations as may be necessary to exempt navigation from artificial obstructions all land and shoal water between low and mean high tide on the shores, bays, and inlets of Bering Sea, within the jurisdiction of the United States, shall be subject to exploration and mining for gold and other precious metals by citizens of the United States, or persons who have legally declared their intentions to become such, under such reasonable rules and regulations as the miners in organized mining districts may have heretofore made or may hereafter make governing the temporary possession thereof for exploration and mining purposes until otherwise provided by law: *Provided further*, That the rules and regulations established by the miners shall not be in conflict with the mining laws of the United States; and no exclusive permit shall be granted by the Secretary of War authorizing any person or persons, corporation or company to excavate or mine under any of said waters below low tide, and if such exclusive permit has been granted it is hereby revoked and declared null and void; but citizens of the United States or persons who have legally declared their intention to become such shall have the right to dredge and mine for gold or other precious metals in said waters below low tide, subject to such general rules and regulations as the Secretary of War may prescribe for the preservation of order and the protection of the interests of commerce; such rules and regulations shall not, however, deprive miners on the beach of the right hereby given to dump tailings into or pump from the sea opposite their claims, except where such dumping would actually obstruct navigation, and the reservation of a roadway 60 feet wide, under the tenth section of the act of May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes," shall not apply to mineral lands or town sites.

Charlton Code, page 73, section 26.

SEC. 254. *Aliens prohibited from fishing in the waters of Alaska.*—That it shall be unlawful for any person not a citizen of the United States, or who has declared his intention to become a citizen of the United States, and is not a bona fide resident therein, or for any company, corporation, or association not organized or authorized to transact business under the laws of the United States or under the laws of any State, Territory, or District thereof, or for any person not a native of Alaska, to catch or kill, or attempt to catch or kill, except with rod, spear, or gaff, any fish of any kind or species whatsoever in any of the waters of Alaska under the jurisdiction of the United States: *Provided, however*, That nothing contained in this act shall prevent those lawfully taking fish in the said waters from selling the same, fresh or cured, in Alaska or in Alaskan waters, to any alien person, company, or vessel then being lawfully in said waters: *And provided further*, That nothing contained in this act shall prevent any person, firm, corporation, or association lawfully entitled to fish in the waters of Alaska from employing as laborers any aliens who can now be lawfully employed under the existing laws of the United States, either at stated wages or by piecework, or both, in connection with Alaskan fisheries, or with the canning, salting, or otherwise preserving of fish.

SEC. 255. That every person, company, corporation, or association found guilty of a violation of any provision of this act or of any regulation made thereunder shall, for each offense, be fined not less than \$100 nor more than \$500, which fine shall be a lien against any vessel or other property of the offending party or which was used in

the commission of such unlawful act. Every vessel used or employed in violation of any provision of this act or of any regulation made thereunder shall be liable to a fine of not less than \$100 nor more than \$500, and may be seized and proceeded against by way of libel in any court having jurisdiction of the offense.

SEC. 256. That the violation of any provision of this act or of any regulation made thereunder may be prosecuted in any United States district court of Alaska, California, Oregon, or Washington.

SEC. 257. The collector of customs of the District of Alaska is hereby authorized to search and seize every foreign vessel and arrest every person violating any provision of this act or any regulation made thereunder, and the Secretary of Commerce and Labor shall have power to authorize officers of the Navy and of the Revenue-Cutter Service and agents of the Department of Commerce and Labor to likewise make such searches, seizures, and arrests. If any foreign vessel shall be found within the waters to which this act applies having on board fresh or cured fish and apparatus or implements suitable for killing or taking fish, it shall be presumed that the vessel and apparatus were used in violation of this act until it is otherwise sufficiently proved. And every vessel, its tackle, apparatus, or implements so seized shall be given into the custody of the United States marshal of either of the districts mentioned in section 256 of this chapter, and shall be held by him subject to the proceedings provided for in section 255 of this chapter. The facts in connection with such seizure shall be at once reported to the United States district attorney for the district to which the vessel so seized shall be taken, whose duty it shall be to institute the proper proceedings.

SEC. 258. The Secretary of Commerce and Labor shall have power to make rules and regulations not inconsistent with law to carry into effect the provisions of this act. And it shall be the duty of the Secretary of Commerce and Labor to enforce the provisions of this act and the rules and regulations made thereunder, and for that purpose he may employ, through the Secretary of the Treasury and the Secretary of the Navy, the vessels of the United States Revenue-Cutter Service and of the Navy: *Provided, however, That nothing contained in this act shall be construed as affecting any existing treaty or convention between the United States and any foreign power.*

NOTE.—Wherever in this chapter the word "act" occurs, it refers to act June 14, 1906.

UNITED STATES PUBLIC LAND STATUTES 1916.

AN ACT Extending the homestead laws and providing for a right of way for railroads in the district of Alaska, and for other purposes.

* * * * *

SEC. 13. That native-born citizens of the Dominion of Canada shall be accorded in said District of Alaska the same mining rights and privileges accorded to citizens of the United States in British Columbia and the Northwest Territory by the laws of the Dominion of Canada or the local laws, rules, and regulations; but no greater rights shall be thus accorded than citizens of the United States or persons who have declared their intention to become such, may enjoy in said District of Alaska; and the Secretary of the Interior shall from time to time promulgate and enforce rules and regulations to carry this provision into effect.

SEC. 14. That under rules and regulations to be prescribed by the Secretary of the Treasury, the privilege of entering goods, wares, and merchandise in bond or of placing them in bonded warehouses at any of the ports in the District of Alaska, and of withdrawing the same for exportation to any place in British Columbia or the Northwest Territory without payment of duty, is hereby granted to the government of the Dominion of Canada and its citizens or citizens of the United States and to persons who have declared their intention to become such whenever and so long as it shall appear to the satisfaction of the President of the United States, who shall ascertain and declare the fact by proclamation, that corresponding privileges have been and are being granted by the government of the Dominion of Canada in respect of goods, wares, and merchandise passing through the territory of the Dominion of Canada to any point in the District of Alaska from any point in said district.

Approved, May 14, 1898 (30 Stat., 415).

REVISED STATUTES OF HAWAII, 1915,

[Organic Act.]

SEC. 73. *Public lands.*—That the laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this act, shall continue in force until Congress shall otherwise provide.

That, subject to the approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian Government in conformity with the laws of Hawaii, between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. In said laws "land patent" shall be substituted for "royal patent;" "commissioner of public lands" for "minister of the interior," "agent of public lands," and "commissioners of public lands," or their equivalents; and the words "that I am a citizen of the United States," or "that I have declared my intention to become a citizen of the United States, as required by law," for the words "that I am a citizen by birth (or naturalization) of the Republic of Hawaii," or "that I have received letters of denization under the Republic of Hawaii," or "that I have received a certificate of special right of citizenship from the Republic of Hawaii." And no lease of agricultural land shall be granted, or renewed by the Government of the Territory of Hawaii for a longer period than fifteen years, and in every such case the land, or any part thereof so leased, may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn, and every such lease shall contain a provision to that effect. All funds arising from the sale or lease or other disposal of such lands shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July 7, 1898. *Provided*, There shall be excepted from the provisions of this section all lands heretofore set apart or reserved by Executive order or orders by the President of the United States.

No person shall hereafter be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who or whose husband or wife shall previously have taken or held any land under any such certificate, lease, or agreement hereafter made or issued, or under any homestead lease or patent based thereon; or who or whose husband or wife, or both of them, shall then own other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law; nor shall any person who, having so declared his intention, shall hereafter take or hold under any such certificate, lease, or agreement, continue so to hold or become entitled to a homestead lease or patent of the land, unless he shall have become a citizen within five years after so taking.

No land for which any such certificate, lease, or agreement shall hereafter be issued or any part thereof or interest therein or control thereof shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise transferred to or acquired or held by or for the benefit of any alien or corporation; or, before or after the issuance of a homestead lease or before the issuance of a patent, to or by or for the benefit of any other person; or, after the issuance of a patent to or by or for the benefit of any person who owns, holds, or controls, directly or indirectly, other land or the use thereof the combined area of which and the land in question exceeds eighty acres: *Provided*, That these prohibitions shall not apply to transfers or acquisitions by inheritance or between tenants in common.

Any land in respect of which any of the foregoing provisions shall be violated shall forthwith be forfeited and resume the status of public land and may be recovered by the Territory or its successors in an action of ejectment or other appropriate proceedings. And noncompliance with the terms of any such certificate, lease, or agreement, or of the law applicable thereto, shall entitle the commissioner, with the approval of the governor before patent has been issued, with or without legal process, notice, demand, or previous entry, to retake possession and thereby determine the estate: *Provided*, That the times limited for compliance with any such terms may be extended by the commissioner, with such approval, upon its appearing that an effort has been made in good faith to comply therewith.

The persons entitled to take under any such certificate, lease, or agreement shall be determined by drawing or lot, after public notice as hereinafter provided; and any lot not taken or taken and forfeited, or any lot or part thereof surrendered with the consent of the commissioner, which is hereby authorized, may be disposed of upon application at not less than the advertised price by any such certificate, lease, or agreement without further notice. The notice of any sale, drawing, or allotment of public land shall be by publication for a period of not less than sixty days in one or more newspapers of general circulation published in the Territory.

The commissioner, with the approval of the governor, may give to any citizen of the United States or to any person who has legally declared his intention to become a citizen, and who shall hereafter become such, which said person has, or who and whose predecessors in interest have, improved any parcel of public lands and resided thereon continuously since April 30, 1900, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price, to be determined by three disinterested citizens appointed by the governor, in the determination of which price the value of improvements shall, when deemed just and reasonable, be disregarded: *Provided, however*, That this privilege shall not extend to any original lessee or to an assignee of an entire lease of public lands.

The commissioner may also, with such approval, issue, for a nominal consideration, to any church or religious organization, or person or persons or corporations representing it, a patent for any parcel of public land occupied continuously for not less than five years heretofore and still occupied by it as a church site under the laws of Hawaii.

No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either forty acres in area or \$5,000 in value shall be made. No lease of agricultural lands exceeding forty acres in area, or of pastoral or waste lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the board of public lands, which is hereby constituted, the members of which are to be appointed by the governor as provided in section 80 of this act, and until the legislature shall otherwise provide said board shall consist of six members and its members be appointed for terms of four years: *Provided, however*, That the commissioner may, with the approval of said board, sell for residence purposes lots and tracts not exceeding three acres in area, and that sales of Government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, sidetracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories, and mills, and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools, and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: *Provided further*, That no exchange of Government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses.

Whenever twenty-five or more persons, having the qualifications of homesteaders who have not theretofore made application under this act shall make written application to the commissioner of public lands for the opening of agricultural lands for settlement in any locality or district, it shall be the duty of said commissioner to proceed expeditiously to survey and open for entry agricultural lands, whether unoccupied or under lease with the right of withdrawal, sufficient in area to provide homesteads for all such persons, together with all persons of like qualification who shall have filed with such commissioner prior to the survey of such lands written applications for homesteads in the district designated in said applications. The lands to be so opened for settlement by said commissioner shall be either the specific tract or tracts applied for or other suitable and available agricultural lands in the same geographical district and, as far as possible, in the immediate locality of and as nearly equal to that applied for as may be available: *Provided, however*, That no leased land, under cultivation, shall be taken for homesteading until any crops growing thereon shall have been harvested.

It shall be the duty of the commissioner of public lands to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in various parts of the Territory for homestead purposes on or before January 1, 1911, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders; and in laying out any homestead the commissioner of public lands shall include therein an amount, not exceeding eighty acres in area, sufficient to support thereon an ordinary family; and all necessary expenses for surveying and opening any such lands for homestead shall be paid for out of any funds of the territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes.

Nothing herein contained shall be construed to prevent said commissioner from surveying and opening for homestead purposes and as a single homestead entry public lands suitable for both agricultural and pastoral purposes, whether such lands be situated in one body or detached tracts, to the end that homesteaders may be provided with both agricultural and pastoral lands wherever there is demand therefor; nor

shall the ownership of a residence lot or tract, not exceeding three acres in area, hereafter disqualify any citizen from applying for and receiving any form of homestead entry, including a homestead lease.

All lands in the possession, use, and control of the Territory shall hereafter be managed by the commissioner, except such as shall be set aside for public purposes as hereinafter provided; all sales and other dispositions of such land shall be made by the commissioner or under his direction, for which purpose, if necessary, the land may be transferred to his department from any other department by direction of the governor, and all patents and deeds of such land shall issue from the office of the commissioner, who shall countersign the same and keep a record thereof. Lands conveyed to the Territory in exchange for other lands that are subject to the land laws of Hawaii, as amended by this act, shall, except as otherwise provided, have the same status and be subject to such laws as if they had previously been public lands of Hawaii. All orders setting aside lands for forest or other public purposes, or with drawing the same, shall be made by the governor, and lands while so set aside for such purposes may be managed as may be provided by the laws of the Territory. The commissioner is hereby authorized to perform any and all acts, prescribe forms of oaths, and, with the approval of the governor and said board, make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this section and the land laws of Hawaii into full force and effect. [As amended by act of Apr. 2, 1908; 35 Stats. at L., c. 124; and by act of May 27, 1910; 36 Stats. at L., c. 258, s. 5.]

The amendment of April 2, 1908, consisted in substituting the part of the fourth sentence of the first paragraph which begins with "fifteen years" in place of "five years until Congress shall otherwise direct." The amendment of May 27, 1910, consisted in adding all after the first paragraph.

AN ACT To provide for certificate of title to homestead entry by a female American citizen who has intermarried with an alien.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any female citizen of the United States who has initiated a claim to a tract of public land under any of the laws applicable thereto, and who thereafter has complied with all the conditions as to the acquisition of title to such land prescribed by the public-land laws of the United States, shall, notwithstanding her intermarriage with an alien, who is entitled to become a citizen of the United States, be entitled to a certificate or patent to such entry equally as though she had remained unmarried or had married an American citizen.

Approved October 17, 1914 (38 Stat., 740).

* * * * *

SEC. 2318. In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law.

SEC. 2319. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

SEC. 2320. Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the 10th day of May, 1872, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the 10th day of May, 1872, render such limitation necessary. The end lines of each claim shall be parallel to each other.

SEC. 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief; and in the case of a corporation organized under the laws of the United States or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

REVISED STATUTES OF THE UNITED STATES, SECOND EDITION, 1878.

SEC. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which such person may have filed a preemption claim, or which may, at the time the application is made, be subject to preemption at \$1.25 per acre; or eighty acres or less of such unappropriated lands, at \$2.50 per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

UNITED STATES STATUTES AT LARGE, FIFTY-FOURTH CONGRESS, 1895-1897.

[Chap. 363.]

AN ACT To better define and regulate the rights of aliens to hold and own real estate in the Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to restrict the ownership of real estate in the Territories to American citizens, and so forth," approved March 3, 1887, except so far as it affects real estate in the District of Columbia, be, and the same is hereby, amended so as to read as follows:

"That no alien or person who is not a citizen of the United States, or who has not declared his intention to become a citizen of the United States in the manner provided by law, shall acquire title to or own any land in any of the Territories of the United States except as hereinafter provided: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer.

"SEC. 2. That this act shall not apply to land now owned in any of the Territories of the United States by aliens which was acquired on or before March 3, 1887, so long as it is held by the then owners, their heirs or legal representatives, nor to any alien who shall become a bona fide resident of the United States, and any alien who shall become a bona fide resident of the United States, or shall have declared his intention to become a citizen of the United States in the manner provided by law, shall have the right to acquire and hold lands in either of the Territories of the United States upon the same terms as citizens of the United States: *Provided*, That if any such resident alien shall cease to be a bona fide resident of the United States then such alien shall have ten years from the time he ceases to be such bona fide resident in which to alienate such lands. This act shall not be construed to prevent any persons not citizens of the United States from acquiring or holding lots or parcels of lands in any incorporated or platted city, town, or village, or in any mine or mining claim, in any of the Territories of the United States.

"SEC. 3. That this act shall not prevent aliens from acquiring lands or any interests therein by inheritance or in the ordinary course of justice in the collection of debts, nor from acquiring liens on real estate or any interest therein, nor from lending money and securing the same upon real estate or any interest therein, nor from enforcing any such lien, nor from acquiring and holding title to such real estate, or any interest therein, upon which a lien may have heretofore or may hereafter be fixed, or upon which a loan of money may have been heretofore or hereafter may be made and secured: *Provided, however*, That all lands so acquired shall be sold within ten years after title shall be perfected in him under said sale or the same shall escheat to the United States and be forfeited as hereinafter provided.

"SEC. 4. That any alien who shall hereafter hold lands in any of the Territories of the United States in contravention of the provisions of this act may nevertheless convey his title thereto at any time before the institution of escheat proceedings as hereinafter provided: *Provided, however*, That if any such conveyance shall be made by such alien, either to an alien or to a citizen of the United States, in trust and for the purpose and with the intention of evading the provisions of this act, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and escheat to the United States.

"SEC. 5. That it shall be the duty of the Attorney General of the United States, when he shall be informed or have reason to believe that land in any of the Territories of the United States are being held contrary to the provisions of this act, to

institute or cause to be instituted suit in behalf of the United States in the district court of the Territory in the district where such land or a part thereof may be situated, praying for the escheat of the same on behalf of the United States to the United States: *Provided*, That before any such suit is instituted the Attorney General shall give or cause to be given ninety days' notice by registered letter of his intention to sue, or by personal notice directed to or delivered to the owner of said land, or the person who last rendered the same for taxation, or his agent, and to all other persons having an interest in such lands of which he may have actual or constructive notice. In the event personal notice can not be obtained in some one of the modes above provided, then said notice shall be given by publication in some newspaper published in the county where the land is situate, and if no newspaper is published in said county then the said notice shall be published in some newspaper nearest said county.

"Sec. 6. That if it shall be determined upon the trial of any such escheat proceedings that the lands are held contrary to the provisions of this act, the court trying said cause shall render judgment condemning such lands and shall order the same to be sold as under execution; and the proceeds of such sale, after deducting costs of such suit, shall be paid to the clerk of such court so rendering judgment, and said fund shall remain in the hands of such clerk for one year from the date of such payment, subject to the order of the alien owner of such lands, or his heirs or legal representatives; and if not claimed within the period of one year, such clerk shall pay the same into the treasury of the Territory in which the lands may be situated, for the benefit of the available school fund of said Territory: *Provided*, That the defendant in any such escheat proceedings may, at any time before final judgment, suggest and show to the court that he has conformed with the law, either becoming a bona fide resident of the United States, or by declaring his intention of becoming a citizen of the United States, or by the doing or happening of any other act which, under the provisions of this act, would entitle him to hold or own real estate, which being admitted or proved, such suit shall be dismissed on payment of costs and a reasonable attorney fee to be fixed by the court.

"Sec. 7. That this act shall not in any manner be construed to refer to the District of Columbia, nor to authorize aliens to acquire title from the United States to any of the public lands of the United States or to in any manner affect or change the laws regulating the disposal of the public lands of the United States. And the act of which this act is an amendment shall remain in force and unchanged by this act so far as it refers to or affects real estate in the District of Columbia.

"Sec. 8. That all laws and parts of laws so far as they conflict with the provisions of this act are hereby repealed."

Approved, March 2, 1897.

UNITED STATES PUBLIC LAND STATUTES, 1916.

AN ACT Providing a civil government for Alaska.

SEC. 8. *Mineral lands*.—That the said District of Alaska is hereby created a land district, and a United States land office for said district is hereby located at Sitka. The commissioner provided for by this act, to reside at Sitka, shall be ex officio register of said land office, and the clerk provided for by this act shall be ex officio receiver of public moneys, and the marshal provided for by this act shall be ex officio surveyor general of said district, and the laws of the United States relating to mining claims, and the rights incident thereto, shall, from and after the passage of this act, be in full force and effect in said district, under the administration thereof herein provided for, subject to such regulations as may be made by the Secretary of the Interior, approved by the President: *Provided*, That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress: *And provided further*, That parties who have located mines or mineral privileges therein under the laws of the United States applicable to the public domain, or who have occupied and improved or exercised acts of ownership over such claims, shall not be disturbed therein, but shall be allowed to perfect their title to such claims by payment as aforesaid: *And provided also*, That the land, not exceeding 640 acres, at any station now occupied as missionary stations among the Indian tribes in said section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which said missionary stations, respectively, belong until action by Congress. But nothing contained in this act shall be construed to put in force in said district the general land laws of the United States.

* * * * *

Approved May 17, 1884 (23 Stat., 26).

[26 U. S. Statutes at Large, 1097.]

SEC. 8. *Desert land act.*—That the provisions of the act to which this is an amendment, and the amendments thereto, shall apply to and be in force in the State of Colorado, as well as the States named in the original act; and no person shall be entitled to make entry of desert land except he be a resident citizen of the State or Territory in which the land sought to be entered is located.

LAWS OF SOME COUNTRIES ON ALIEN OWNERSHIP OF LAND.

[Law of Japan under separate heading.]

AMERICAN SAMOA—EXCERPT FROM LAND LAW.

[Codification of the Regulations and Orders for the Government of American Samoa, by Alexander Stoenach, Judge of the High and District Courts, by order of J. M. Poyer, governor, Apr. 17, 1917, sec. 40, pars. 1, 2, and 3.]

1. The word "native" in this regulation shall mean and include aboriginal natives of the Islands of Samoa, and the word "nonnative" shall mean and include any other person. The term "native land" shall mean and include lands owned by a native.

2. From and after the coming into force of this regulation the alienation of native lands within the limits of American Samoa, to a nonnative, is prohibited. But this regulation shall not prohibit the conveyance or transfer of native land, for governmental or public purposes, to the United States Government or the Island Government of American Samoa, or to a lawful agent or trustee thereof.

3. Native land may, with the sanction of the governor, be leased for any term not exceeding 40 years for any purposes, except for the working of minerals and cutting of timber.

(Regulation No. 4-1900 enacted Apr. 30, 1900.)

SOME COUNTRIES HAVING ALIEN LAND LAWS, WITH A DIGEST OF SAME.

[Excerpts from California and the Oriental, by the State Board of Control of California, 1920.]

PHILIPPINE ISLANDS.

The Fourth Philippine Legislature, special session of 1919, in act No. 2874, H. No. 1194, H. Ct. R., No. 37, passed an act which is now in force in the Philippine Islands and which became a law with the sanction of the Federal Government of the United States and is very specific in all of its sections in confining ownership and leasing of land to citizens of the Philippine Islands or of the United States, except that citizens of countries whose laws grant to citizens of the Philippine Islands the right to acquire land may acquire in the Philippine Islands a parcel of agricultural land not in excess of 100 hectares. Chapter 4, section 12, reads in part as follows: "Any citizen of the Philippine Islands or of the United States, over the age of 18 years * * * may enter a homestead. * * *"

Chapter 5, section 23, reads as follows: "Any citizen of lawful age of the Philippine Islands or of the United States, and any corporation or association of which at least 61 per cent of the capital stock or of any interest in said capital stock belongs wholly to citizens of the Philippine Islands or of the United States, and which is organized and constituted under the laws of the Philippine Islands or of the United States or of any State thereof and authorized to transact business in the Philippine Islands, and corporate bodies organized in the Philippine Islands authorized under their charters to do so, may purchase any tract of public agricultural land disposable under this act, not to exceed 100 hectares in the case of an individual and 1,024 hectares in that of a corporation or association * * *. *Provided*, That citizens of countries the laws of which grant to citizens of the Philippine Islands the same right to acquire public land as to their own citizens, may, while such laws are in force, but not thereafter, with the express authorization of the legislature, purchase any parcel of agricultural land, not in excess of 100 hectares, available under this act, upon complying with the requirements of this chapter."

Chapter 6, section 34, relating to leasing reads as follows: "Any citizen of lawful age of the Philippine Islands or of the United States, and any corporation or association of which at least 61 per cent of the capital stock or of any interest in said capital stock belongs wholly to citizens of the Philippine Islands or of the United States, and which is organized and constituted under the laws of the Philippine Islands or of the United States or of any State thereof, and authorized to transact business in the Philippine Islands, may lease any tract of agricultural public land available for lease under the provisions of this act, not exceeding a total of 1,024 hectares: *Provided*, That citizens

of countries the laws of which grant to citizens of the Philippine Islands the same rights to lease public land as to their own citizens, may, while such laws are in force, but not thereafter, with the express authorization of the legislature, lease any parcel of agricultural land, not in excess of 1,024 hectares, available for lease in accordance with this act, * * *

Chapter 7, section 41, relating to free patents of lands, reads as follows: "Any native of the Philippine Islands * * * shall be entitled, under the provisions of this chapter, to a free patent * * *."

Sec. 120. No land originally acquired in any manner under the provisions of this act, nor any permanent improvement on such land, shall be encumbered, alienated, or transferred, except to persons, corporations, associations, or partnerships who may acquire lands of the public domain under this act; to corporations organized in the Philippine Islands authorized therefor by their charters, and upon express authorization by the Philippine Legislature, to citizens of countries the laws of which grant to citizens of the Philippine Islands the same right to acquire, hold, lease, encumber, dispose of, or alienate land, or permanent improvements thereon, or any interest therein, as to their own citizens, only in the manner and to the extent specified in such laws, and while the same are in force, but not thereafter.

Sec. 121. No land originally acquired in any manner under the provisions of the former public land act or of any other act, ordinance, royal order, royal decree, or any other provision of law formerly in force in the Philippine Islands with regard to public lands, terrenos baldios y realengos, or lands of any other denomination that were actually or presumptively of the public domain, or by royal grant or in any other form, nor any permanent improvement on such land, shall be encumbered, alienated, or conveyed, except to persons, corporations, or associations who may acquire land of the public domain under this act, to corporate bodies organized in the Philippine Islands whose charters may authorize them to do so, and, upon express authorization by the Philippine Legislature, to citizens of countries the laws of which grant to citizens of the Philippine Islands the same right to acquire, hold, lease, encumber, dispose of, or alienate land or permanent improvements thereon or any interest therein, as to their own citizens, and only in the manner and to the extent specified in such laws, and while the same are in force, but not thereafter: *Provided, however*, That this prohibition shall not be applicable to the conveyance or acquisition by reason of hereditary succession duly acknowledged and legalized by competent courts, nor to lands and improvements acquired or held for industrial or residence purposes, while used for such purposes: *Provided further*, That in the event of the ownership of the lands and improvements mentioned in this section and in the last preceding section being transferred by judicial decree to persons, corporations, or associations not legally capacitated to acquire the same under the provisions of this act, such persons, corporations, or associations shall be obliged to alienate said lands or improvements to others so capacitated within the precise period of five years, under the penalty of such property reverting to the Government in the contrary case.

Sec. 122. Any acquisition, conveyance, alienation, transfer, or other contract made or executed in violation of any of the provisions of sections 116, 118, 119, 120, and 121 of this act shall be unlawful and null and void from its execution and shall produce the effect of annulling and canceling the grant, title, patent, or permit originally issued, recognized, or confirmed, actually or presumptively, and cause the reversion of the property and its improvements to the Government.

MEXICO.

Only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership in lands, waters, and their appurtenances, or to obtain concessions to develop mines, waters, or mineral fuels in the Republic of Mexico. The nation may grant the same right to foreigners, provided they agree before the department of foreign affairs to be considered Mexicans in respect to such property, and accordingly not to invoke the protection of their Governments in respect to the same under penalty, in case of breach, of forfeiture to the nation of property so acquired. Within a zone of 100 kilometers from the frontiers and of 50 kilometers from the sea-coast no foreigner shall under any conditions acquire direct ownership of lands and waters.

AUSTRALIA.

The matter of land ownership is one affecting the individual State governments. In the States of New South Wales, South Australia, and Tasmania restrictions are imposed upon the tenure of lands by aliens. In Victoria and Western Australia there are no such restrictions. Following is a summary of the State laws:

(1) *New South Wales*.—Under the Crown lands consolidation act, 1913, an alien is not qualified to apply for an original homestead selection, original conditional purchase lease, settlement lease, original homestead lease, or original conditional purchase unless he has resided in New South Wales for one year and at the time of making application lodges a declaration of his intention to become naturalized within five years. If he fails to become naturalized within that period, the land is forfeited. This residential limit of 12 months does not, however, apply to applicants for homestead farms, Crown leases, suburban holdings, and leases within irrigation areas, but any alien who becomes the holder of any of these tenures must become naturalized within three years after his becoming such holder. Failure to comply with this regulation involves forfeiture of such holding, together with all improvements thereon.

(2) *Victoria*.—Under the supreme court act, 1915 (sec. 3), every alien friend resident in Victoria may acquire, either by grant from the crown or otherwise, both real and personal property.

(3) *Queensland*.—Under the land act, 1910 (secs. 59b and 62), an alien can not apply for any land in Queensland unless he obtain a certificate that he is able to read and write from dictation words in such language as the minister for lands may direct. If he acquire a selection, he must within five years of such acquisition become a naturalized subject.

(4) *South Australia*.—In South Australia, Asiatics are disqualified from holding perpetual leases of lands in irrigation areas under section 19 of the irrigation and reclaimed lands act, 1914.

(5) *Western Australia*.—In this State aliens are under no disability as regards the acquisition of the freehold of lands already alienated. Every application to acquire crown lands, whether by a British subject or an alien, is subject to the approval of the minister for lands, with an appeal to the governor in council.

(6) *Tasmania*.—Under the aliens act, 1861 (sec. 2), aliens can not hold real estate. An alien, if the subject of a friendly State, may, however, occupy lands for any term not exceeding 21 years.

PACIFIC ISLANDS.

North Borneo.—Any alien desirous of purchasing land from a native shall address his application to the collector who, if he sees fit to sanction such purchase, shall, if the native owner consents, acquire the land on behalf of the government and shall fix the premium and quitrent at which the land shall be leased by the government to the applicant and such new leases shall be issued under Part II or III hereof. (Ordinances of North Borneo, 1881-1914, p. 349.)

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